

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CP No. D-8115 of 2022

(Amma Foundation (Trust) & Barkati Foundation v. The Province of Sindh & Others)

DATE: **ORDER WITH SIGNATURE(s) OF JUDGE(s)**

Before:

Mr. Justice Yousuf Ali Sayeed
Justice Ms. Sana Akram Minhas

Petitioner: Through, M/s Taimoor Ali Mirza &
Muhammad Naqash, Advocates

Respondent(s): Through, Mr. Shahryar Qazi
Additional Advocate General, Sindh

Date of Hearing: 7-5-2025

Date of Decision: 15-7-2025

ORDER

1. **Sana Akram Minhas J:** This Petition impugns the letter dated 5.12.2022 (“**Impugned Letter**”) issued by the Land Utilization Department, Government of Sindh (Respondent No.3), whereby the Petitioner’s request for conversion/change in land-use was declined, for the time being, in view of the ban on further land transactions imposed by the Supreme Court vide order dated 28.11.2012 in Suo Motu Case No.16/2011.
2. The Petitioner, who claims to be a registered charitable private trust established for the promotion of, inter alia, religious education, seeks the conversion of several parcels of land situated in Naiclass No.119 and Naiclass No.122, Deh Tore, Taluka Gadap Town, Karachi – collectively measuring 167 acres – from poultry farming use (under a 30-year lease) to amenity use under a 99-year lease. These parcels were originally leased in varying sizes and at different locations to multiple third parties for poultry farming for 30 years, from whom the Petitioner later acquired them.
3. From the outset, the stance of learned Counsel for the Petitioner has been marked by calculated ambiguity. Counsel’s vacillating position appears to reflect a deliberate attempt to keep multiple options open. For instance, when asked to identify the legal provision under which land leased for poultry

farming could be converted into amenity land, Counsel stated that the Petitioner was not seeking conversion but was pressing for allotment of an equivalent parcel of land (i.e. 167 acres) for amenity purposes. When asked whether the Petitioner was abandoning its original prayer for conversion of land use from poultry farming to amenity purposes, Counsel replied in the negative. Upon being pressed to cite the legal basis for claiming such a substantial allotment of amenity land, Counsel vaguely referred to past precedents. However, when asked to produce any such precedent, he was unable to do so. The Court then observed that the Petitioner had not made any alternate prayer for the allotment of amenity land and inquired how relief could be granted beyond the scope of the pleadings. In response, Counsel once again relied on the existence of precedents. Yet, when asked again to provide one, he remained unable to cite even a single instance.

4. Accordingly, we confine our examination to the Petitioner's stated prayer for the issuance of a 99-year lease for 167 acres of land for amenity purposes, which was initially leased for poultry farming under a 30-year lease.
5. Counsel contended that the Impugned Letter was issued under the guise of compliance with the Supreme Court's order dated 28.11.2012, which, according to him, stood overtaken and superseded by a subsequent order dated 23.6.2014 (**at Court File Pg. 461**). Counsel drew attention to paragraph 9 of the main Petition and submitted that the latter order modified the earlier one and thus rendered it inapplicable to the present case.
6. To properly assess this contention, the relevant extracts from both orders passed in Suo Motu Case No.16/2011, are reproduced below. The names of the Honourable Judges, both here and in the orders that follow, are cited solely to indicate the numerical strength of the Bench, given that the numerical composition has been regarded as a pertinent factor in subsequent Supreme Court orders set out below.

Order dated 28.11.2012:

Present:

Mr. Justice Anwar Zaheer Jamali
 Mr. Justice Khilji Arif Hussain
 Mr. Justice Sarmad Jalal Osmany
 Mr. Justice Amir Hani Muslim
 Mr. Justice Muhammad Ather Saeed

7. Under these circumstances, we are constrained to direct that the Deputy Commissioners / District Coordination Officers of Sindh, to ensure that immediately the entire revenue record of all the district is kept in the custody of Mukhtiarkar in terms of the directives contained in the aforesaid judgment of the High Court and shall not be removed from the office of the

Mukhtiarkar to any other place. Moreover, mindful of rampant corruption and organized crime of land grabbing, particularly, regarding prime state land, and mismanagement / forgeries in the revenue record, we hereby, until further orders restrain the Government / Revenue Department from mutation, allotment, transfer and or conversion of any state land and or keeping any transaction or entry in the record of rights in this regard in revenue record of Sindh or till the entire revenue record in Sindh is reconstructed. The conversion of lease for 30 years or of any term upto 99 years shall also be stopped immediately as by this mode the state land is being sold out at a throwaway price without participation of public at large, which the law does not permit. Any further conversion or mutation of state land in the record of rights from today onwards would be deemed nullity and would expose the Deputy Commissioner / DCO of the relevant districts / dehs besides others to contempt proceedings.

Order dated 23.6.2014:

Present:

Mr. Justice Tassaduq Hussain Jilani, HCJ

Mr. Justice Sh. Azmat Saeed

Mr. Justice Mushir Alam

6. *We may at this stage clarify that this order staying the allotment / grant of long leases was meant to ensure that the land is not either leased out or allotted for reasons other than bona fide and to land grabbers and this would not prevent the competent authority in the Federal or Government of Sindh to allot or lease out land for a project approved by the concerned authority which is directed towards establishment of any industry or automotive plant or power generating plant or any other initiative in public interest and in accordance with law and the relevant rules. The learned Advocate General, Sindh, shall convey this order to the Chief Secretary and all the provincial secretaries to ensure that the earlier order is not misconstrued and no such project is held up on that account.*
7. Upon the Court's inquiry regarding further orders of the Supreme Court following the order dated 23.6.2014, the Petitioner's Counsel stated that he was unaware of them.
8. Since the Supreme Court has issued further orders in Suo Motu Case No.16/2011 subsequent to the order dated 23.6.2014 – on which Counsel for Petitioner relied to contend that the earlier order dated 28.11.2012 had been modified and the ban imposed therein was no longer in force – and as those subsequent orders override the order dated 23.6.2014, they are of considerable relevance to the Petitioner's case. It is, therefore, appropriate to reproduce the said orders for proper appreciation.

9. On **1.8.2016**, the Supreme Court in Suo Motu Case No.16/2011, among various directions, ordered as follows:

Present:

Mr. Justice Amir Hani Muslim
Mr. Justice Mushir Alam

8. *Today, the learned Counsel representing the Senior Member, Board of Revenue, and Ch. Aitzaz Ahsan, learned Sr. ASC, have submitted that the aforesaid restraining order was modified, by order dated 23.06.2014, passed by a three member Bench, relevant portion of the said order is also reproduced hereunder:-*

Learned Advocate General, Sindh, submits that the order of this Court regarding stay of allotments, mutations, transfer and conversion of any state land is being complied with in letter and spirit.

6. We may at this stage clarify that this order staying the allotment / grant of leases was meant to ensure that the land is not either leased out or allotted for reasons other than bona fide and to land grabbers and this would not prevent the competent authority in the Federal or Government of Sindh to allot or lease out land for a project approved by the concerned authority which is directed towards establishment of any industry or automotive plant or power generating plant or any other initiative in public interest and in accordance with law and the relevant rules. The learned Advocate General, Sindh, shall convey this order to the Chief Secretary and all the provincial secretaries to ensure that the earlier order is not misconstrued and no such project is held up on that account.

9. **We may clarify that the aforesaid order dated 23.06.2014 was obtained by misleading the Court on the pretext that re-writing / reconstruction of the record has been completed by the Sindh Government.** Today, the Senior Member, Board of Revenue, concedes that the reconstruction and rewriting of the record has not been completed till date. **We hold that the order dated 28.11.2012, passed by a five Member Bench of this Court, was never modified and holds the field.**

[Emphasis added]

10. Thereafter, on **7.8.2019**, by a further order in Suo Motu Case No.16/2011, one of the directions issued by the Supreme Court was as follows:

Present:

Mr. Justice Gulzar Ahmed
Mr. Justice Faisal Arab
Mr. Justice Sajjad Ali Shah

3. *The matter regarding grant of allotment and extension of lease cannot be addressed by this Court at this point of time, for that the Sindh Board of Revenue in the first place is the*

competent authority to consider the applications for grant of allotment and if such allotment is sought to be bona fide and in accordance with law and further the order of this Court dated 28.11.2012 in all respects has been complied with. No private sale of Government land apparently is not permissible in law. So far the extension of lease on [or] conversion of lease from 30 years to 99 years, the same cannot be allowed for that no law has been cited before us for doing so.

11. It is important to add here that the aforesaid order dated 1.8.2016 (passed in *Suo Motu Case No.16/2011*) was relied upon by a separate Bench of the Supreme Court (comprising Ejaz Afzal Khan, Maqbool Baqar, and Faisal Arab, JJ) in its judgment in **Mehmood Akhtar Naqvi v. Israr, Senior Member, Board of Revenue Sindh (PLD 2018 SC 468)**, delivered on 5.4.2018 (uploaded on Supreme Court website on 4.5.2018), popularly known as the *Bahria Town* judgment. The Bench expressed surprise and concern, noting that a three-member Bench (which had issued the order dated 23.6.2014) could not modify an earlier order passed by a five-member Bench on 28.11.2012.
12. Upon being confronted with these subsequent developments – specifically, the Supreme Court’s order dated 1.8.2016 (which declared that the order dated 23.6.2014 had been improperly procured through misrepresentation and affirmed that the original order dated 28.11.2012 remained unmodified and continued to remain in force), as well as the 2018 judgment in *Mehmood Akhtar Naqvi* (supra) (which clarified that the order dated 23.6.2014 could not override the earlier, larger-bench order of 28.11.2012) – the Petitioner’s Counsel was unable to provide any response.
13. Counsel for Petitioner then sought to advance an argument of discrimination, contending that various other individuals and entities owning land in the same vicinity had been issued challans for the grant of 99-year leases for housing and industrial purposes **(at Court File Pg. 477 to 497)**, notwithstanding the ban imposed by the Supreme Court. On this basis, he urged that the official Respondents be directed to issue a similar challan to the Petitioner provisionally, subject to the Supreme Court’s conclusive ruling or further orders in *Suo Motu Case No.16/2011*.
14. The Petitioner’s request for issuance of a provisional challan, being legally untenable, must fail for the following reasons:
 - i) First and foremost, the Supreme Court’s directions dated 28.11.2012 in *Suo Motu Case No.16/2011* are categorical and binding. All forms of mutation, allotment, transfer, or conversion (whether for 30 years or for terms up to 99 years) of state land – including the issuance of any revenue entries or instruments facilitating such transactions,

regardless of their purpose or category – stand expressly restrained until further orders or until the reconstruction of the entire revenue record of Sindh. The prohibition against making any entry in the record of rights effectively freezes the ability to process, record, or legalize any transaction involving state land. The stay order indicates a long-term and conditional restraint that is not limited by time but by administrative reform.

- ii) Secondly, the issuance of a challan, even provisionally, would amount to advancing a process that the Supreme Court has explicitly frozen, and would therefore, in our view, constitute a violation of the binding stay order. It would also conflict with the Court’s intent to suspend all transactions involving state land pending systemic correction, and could, following payment of challan, provide the Petitioner with a basis to assert a financial or equitable interest in the property, thereby further complicating the matter. Moreover, it may expose the officials involved to contempt proceedings, as expressly cautioned by the Apex Court in its orders.
- iii) Finally, the plea for parity – based on the claim that others in similar circumstances were issued challans – cannot be sustained in law. An illegality or irregularity in one or even multiple cases does not create a vested right to demand similar treatment. The doctrine of equality under the law does not mandate that unlawful benefits extended to others be perpetuated. If certain actions have been taken in violation of binding judicial orders, they may warrant scrutiny and rectification – but they cannot serve as a benchmark for entitlement. Equal treatment cannot be invoked to sustain illegality; it must operate to uphold the law, not to undermine it. Even-handed enforcement of the law requires the correction of prior deviations, not their replication.

15. It therefore emerges from the foregoing discussion that the Petition is without merit and is accordingly **dismissed**. No order is made as to costs.

JUDGE

JUDGE

Announced On: 17th July, 2025