

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Const: Petition No.D-1040 of 2024

Date	Order with signature of Judge
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- 1. For orders on CMA No.4733/2025 (U/A)
- 2. For orders on CMA No.4030/24 (Ex/A)
- 3. For orders on o/objection.
- 4. For orders on CMA No.4031/2024
- 5. For orders on CMA No.4032/2024
- 6. For hearing of main case.

30.07.2025

Mr. Muhammad Zohaib Azam Rajput, Advocate for the petitioners

1. This matter was filed on 12.07.2024, but only listed today, for the first time after its filing, after more than one (1) year. The urgency pleaded in the year 2024 is out of place 13 months later. Accordingly, urgency is dismissed.

2to6. The petitioner Counsel has filed a Statement dated 21.11.2024 in this petition that this lis is to be fixed before the Constitutional Bench under Sections 199(1)(a)(i) and (c), whereas the Roster has listed this matter before us today. The division bench, today, as per the Summer Roster, comprises a member of the Constitutional Bench and another member of the Regular Bench of the High Court.

Based on a tentative reading, the petition essentially impugns the Order dated 12.06.2024 passed by the Anti-Encroachment Tribunal Sukkur, which suggests that this matter is to be heard and decided by the Regular Bench. Yet, the three (3) petitioners, comprising the Director, Sukkur Municipal Corporation (“SMC”), Sukkur (petitioner 1), Municipal Commissioner, SMC Sukkur (petitioner 2) and Anti-Encroachment officer, SMC, Sukkur, have not expressly pleaded anywhere in the petition that the aforesaid impugned Order is “without authority” or “of no legal effect”. Further, there is no prayer clause. None whatsoever, and this is also an Objection raised by the Office.

In two unreported judgments of the Full Bench of the High Court, both judgments dated 22.04.2025, that is, Syed Sahir Hasan v. The Province of Sindh and Others (Constitutional Petition No.D937/2025)(“the Syed Sahir Hasan case”), and in Muhammad Shoaib Palijo & Ors v. Province of Sindh & Others (CP No.D-508/2023 along with C.P. No.D-509, 1080, 1105, 1587, 227, 2736, 3978, 4308, 5087 and 5422 of 2023), it was held that if for some reason there is a case which has some overlapping issues falling with a larger and broader perspective under Article 199(1) of the 1973 Constitution, then the Constitutional Bench can always hear such a case as it is not denuded with such powers. The Judges of Constitutional Benches, therefore, can always exercise powers under their Roster, as and when required, while hearing a particular case in respect of Article 199(1)(a)(ii) and (b) as well.

In view of the above, the Office is directed to re-list this petition along with CP D-1039/2024 and 1041/2024 which involve the same three (3) petitioners and impugns the same Order dated 12.06.2024 according to the Roster positively in the first week (next week), after summer vacations, with advance intimation to the three (3) petitioners and Counsel for the petitioner.

JUDGE

JUDGE

S.Nawaz(St)'