

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT:

Mr. Justice Gulzar Ahmed, CJ
Mr. Justice Qazi Muhammad Amin Ahmed

CONST. PETITION NO.9 OF 2010

[Niamatullah Khan Advocate Vs. Federation of Pakistan, etc.]

AND

CRIMINAL ORIG. PETITION NO.7-K OF 2017

[Mst. Sahiba Parveen Vs. Syed Nasir Abbas, Director General, KDA
and others (Matter pertaining to allotment of alternate plot)]

AND

CMA NO.6206 OF 2013 IN CONST. P. NO.9 OF 2010

[Report of Additional Registrar of this Court]

AND

GUJJAR NALLAH:

CRIMINAL ORIGINAL PETITION NO.9-K OF 2021

[Syeda Maria Raza Vs. Government of Sindh through Chief
Secretary Sindh & others (matter regarding illegal encroachment
over drainage river of Haji Limo Village at Gulshan-e-Iqbal)]

AND

CMA NO.441-K OF 2021

[Niamatullah Khan Advocate Vs. Federation of Pakistan & others
(regarding illegal Faiz Muhammad Vs. Province of Sindh through
Chief Secretary and others (regarding illegal encroachment over
drainage river of Haji Limo Village at Gulshan-e-Iqbal)]

AND

CMA No.1083-K OF 2021

Niamatullah Khan Advocate Vs. Federation of Pakistan and others
(For seeking direction for removal of encroachment on Gujjar Nalla
and Orangi Nala)(For seeking direction for removal of
encroachment on Gujjar Nalla and Orangi Nala)

AND

CMA No.1112-K OF 2021 IN C.R.P. NO.61-K OF 2021

[Shehri and others Vs. Naimatullah Khan and others (Matter
regarding encroachment over Gujjar Nalla and Orngi Nalla)]

AND

CIVIL AVIATION AUTHORITY:

CMA No.774-K OF 2021

[Civil Aviation Authority Vs. Federation of Pakistan & others
(Applicant has alleged that Government of Sindh has allotted 209
acres land in 1990 to CAA for construction of new Airport but
some officials of GOS are illegally allotting and creating Surveys
Nos. from said land)]

AND

AMENITY PLOT USED FOR MARRIAGE HALLS:

CMA No.522-K OF 2020 IN CONST. P. No.9 OF 2010

[Waleed Ahmed & others Vs. Federation of Pakistan & others (Plot
No.SNPA-21-D & SNPA-23, both are public amenities plots and
meant for "Park" and the same are used for marriage/commercial
activities)]

AND

ZIAUDDIN HOSPITAL:

CRL.M.A. No.59-K OF 2018

[Application for Intervener filed by Mr. Ghulam Rasool Mangi, AOR
on behalf of applicant namely, Shah Mohammad (against
encroachment made around ZiauddinHospital, Clifton Karachi by
its management and false cases registered against applicant)]

AND

SOUTH CITY HOSPITAL:

C.M.A. No.1062-K OF 2021

[Dr. Sadia Rasool Virk Vs. Federation of Pakistan and others
(Reply to Show Cause Notice on behalf of SouthCityHospital)]

AND

C.M.A. No.1064-K OF 2021

[M/s. South City Hospital (Pvt) Limited Vs. Federation of Pakistan
and others (Reply to Show Cause Notice on behalf of South City
Hospital)]

AND

ENCROACHMENT IN JACOBABAD ON AMENITIES:

CMA NO.NO.941-K OF 2020

[Niamatullah Khan Advocate Vs. Federation of Pakistan and others
(regarding encroachment in Jacobabad at various government
lands i.e. amenities, parks etc. by influential persons)]

AND

CMA NO.NO.1114-K OF 2021

[Ms. Maliha Malik Vs. Federation of Pakistan (statement of Mr. Aijaz Hussain Jakhrani and Sajjad Hussain Jakhrani)]

AND

CMA No.775-K OF 2021

[Muhammad Akram Abro Vs. Federation of Pakistan& others (Applicant has prayed for the correction of order dated 16.06.2021 whereby he has requested to read name hotel mairaj instead of Hotel Hermain)]

AND

ALADIN PARK:

CMA NO.698-K OF 2021

[M/s A.A. Joy Land (Pvt.) Ltd. Vs. Federation of Pakistan& others (matter pertains to Aladin Park)]

AND

CMA No.1000-K OF 2021

[Niamatullah Khan & others. Vs. Federation of Pakistan& others (matter regarding Aladin Park)]

AND

PARKING ISSUES OF HIGH COURT OF SINDH & FUTURE EXTENSION OF HIGH COURT OF SINDH:

CMA No.74-K OF 2020 IN CONST. P. No.9 OF 2010

[Application for intervener filed on behalf of Sindh High Court Bar Association through its Honourary Secretary (regarding parking space at High Court of Sindh)]

AND

COMM-3:

CMA NO.86-K OF 2020 IN CONST.P.NO.9 OF 2010

[M/s Ishaq Enterprises Vs. Federation of Pakistan& others (concise statement with regard to allotment of COMM-3)]

AND

CMA No.711-K OF 2020 IN CONST.P. NO.9 OF 2010

[M/s Ishaq Enterprises Vs. Federation of Pakistan& others (objection filed on CMA no.86-K of 2020)]

AND

YMCA GROUND:

CRP NO.57-K OF 2021

[Asian Pacific Alliance of YMCAs Vs. Federation of Pakistan& others
(matter pertains to YMCA Ground)]

AND

KIDNEY HILL:

CRL.ORG.P.NO.8-K OF 2021

[Abu Turab Vs. Syed Mumtaz Ali Shah & others (matter regarding
Kidney Hill Land)]

AND

CMA NO.391-K OF 2020 IN CONST.P.NO.9 OF 2010

[Abu Turab Vs. Federation of Pakistan & others (regarding illegal
constructions inside of Kidney Hill Land situated at Faran Society,
Barrister Ahmed Road near Dhooraji Colony, Karachi)]

AND

CMA NO.714-K OF 2020 IN CONST.P.NO.9 OF 2010

[Niamatullah Khan Vs. Federation of Pakistan & others (mater
regarding Al-Fatah Masjid Admeasuring 1400 Sq. Yards at Kidney
Hill Ahmed Ali Park, Faran Society, Karachi)]

AND

CMA NO.424-K of 2021

[Mr. Ibrahim Younus & others. Vs. Federation of Pakistan& others
(Kidney Hill Park Land)]

AND

CMA NO.437-K OF 2021

[Niamatullah Khan Vs. Federation of Pakistan& others (matter
regarding various plots at Overseas Cooperative Housing Society
lies adjacent to Kidney Hill Park)]

AND

CMA NO.438-K OF 2021

[Niamatullah Khan Advocate Vs. Federation of Pakistan& others
(matter regarding various plots at Overseas Cooperative Housing
Society lies adjacent to Kidney Hill Park)]

AND

CMA NO.515-K OF 2021

[Abrar Hassan Vs. Federation of Pakistan& others (matter pertains to Kidney Hill Park)]

AND

HILL PARK LAND:

CRL.ORG.P.NO.13-K OF 2021

[Mrs. Gul Nilofer & another Vs. Major (R) Naveed Ahmed Khan & others]

AND

CRL.ORG.P.NO.14-K OF 2021

[Mrs. Shabnum Humayun Vs. Federation of Pakistan and others (matter regarding Hill Park)]

AND

KDA OFFICERS CLUB:

CRL.MA NO.229-K OF 2018 IN CRL.ORG.P.NO.7-K OF 2017

[Application for intervener filed by Mr. Ghulam Qadir Jatoi, AOR on behalf of KDA Officer Club (Against illegal and unconstitutional partial demolition on the premises of the applicant at Plot No.ST-6, Of Kashmir Road, Karachi)]

AND

KARACHI CIRCULAR RAILWAY:

CMA NO.621-K OF 2021

[Niamatullah Khan Advocate Vs. Federation of Pakistan& others. (report regarding KCR, in compliance of order dated 08.04.2021 filed by D.G. FWO)]

AND

CMA NO.167-K OF 2020

[Application for intervener filed by Syed Muhammad Iqbal Kazmi. (the matter regarding KCR project and demolishing of illegal construction in Karachi)]

AND

CMA NO.367-K OF 2020 IN CONST.P.NO.9 OF 2010

[Shamim Ahmed Siddiqui Vs. Federation of Pakistan& others (regarding encroachment over railway land/SafariPark)]

AND

CMA NO.177-K OF 2020

[Application for intervener filed by Farhad Younus Memon. (The matter regarding 650 constructed Houses in Project No.7 (PRECHS) near Gillani Station Gulshan-e-Iqbal, Karachi]

AND

CMA NO.898-K OF 2020

[Pakistan Railways through Divisional Superintendent. Vs. Federation of Pakistan& others (matter regarding encroachment over Pakistan Railway Land & Revival of KCR)]

AND

TEJORI HIGHTS/TOWER ON RAILWAYS LAND:

CMA NO.1124-K OF 2021 IN C.R.P. NIL-K OF 2021 IN CMA NO.277-K OF 2021 IN C.R.P. NIL-K OF 2021 IN CMA NO.898-K OF 2021

[Federation of Pakistan through Secretary/Chairman Railways Vs. M/s. Karachi Town Builders (regarding encroachment over Pakistan Railway Land and revival of KCR)(Tejori Heights/Tower)]

AND

RAILWAYS EMPLOYEES CO-OPERATIVE HOUSING SOCIETY:

CMA NO.541-K OF 2020

[Muhammad Ahmed Khan & others. Vs. Federation of Pakistan& others (matter regarding Pakistan Railway Employees Cooperative Housing Society))]

AND

CMA NO.630-K OF 2020

[Pakistan Railway Employees Cooperative Housing Society Limited Vs. Federation of Pakistan& others (the matter pertains to encroachment over Railway Land on account of Railway Cooperative Housing Society)]

AND

ENROACHMENT OVER RAILWAYS LAND AT HYDERABAD:

CMA NO.1110-K OF 2021

[Application on behalf of Divisional Superintendent through Deputy Director Railways against M/s Labaik CNG Station Hyderabad and others (matter regarding encroachment over Railway's land at Hyderabad)]

AND

ROYAL PARK:

CM APPEAL NO.37 OF 2021 IN CRP NO.7-K OF 2020 IN CMA NO.690-K OF 2019 IN CONST.P.NO.9 OF 2010

[M/s Quality Builders Vs. Federation of Pakistan & others (for grant of time to remove and take away the materials from building)]

AND

CMA NO.1004-K OF 2021

[Muhammad Zohaib Ather Vs. Federation of Pakistan and others (Matter regarding Royal Pak Project)]

AND

NON-SUPPLY OF WATER:

CMA NO.770-K OF 2020

[Matter regarding non-supply of water through already decided water lines in DHA, Karachi]

AND

HIGH RISE BUILDING ON AMENITY PLOTS OR OTHERWISE (MULTI-STORIES BUILDING):

CRL.M.A.NO.52-K OF 2018

[Application for Intervener filed by Muhammad Asif Shafi against seeking direction for demolition of illegal construction on plot No.70-A, Sindh Muslim Cooperative Housing Society, Karachi (Multi-Storey Building)]

AND

CMA NO.631-K OF 2019 IN CONST.P.NO.9 OF 2010

[Application for intervener filed by Mrs. Nelofar Abbasey Vs. (illegal construction is carried out by King Builders over Private Park/Amenity Plot)]

AND

CMA NO.78-K OF 2020 IN CONST. P. NO.9 OF 2010

[Application for intervener filed on behalf of Muhammad Talha and Mansoor Sharif Hamid Vs. (regarding high rise building on amenity plot)]

AND

KING COTTAGES/BAGH-E-QAMAR:

CMA NO.523-K OF 2020 IN CONST.P.NO.9 OF 2010

[Muhammad Waseem Samoo Vs. Federation of Pakistan & others (matter regarding King Cottage/Bagh-e-Qamar situated at Scheme No.36, Gulshan-e-Johar, Karachi)]

AND

HAYAT REGENCY HOTEL:

CMA NO.83-K OF 2020 IN CONST.P.NO.9 OF 2010

[Application for intervener filed on behalf of Pakistan Mercantile Exchange Ltd. And NCEL Building Management Ltd. Vs. (regarding Hyatt Regency Hotel)]

AND

KARACHI GYMKHANA:

CMA NO.512-K OF 2020 IN CONST.P.NO.9 OF 2010

[Application for intervener filed by Mst.Yasmeen Lari (regarding Karachi Gymkhana)]

AND

PARSA CITY (ILLEGAL CONSTRUCTION OF 18 FLOOR BUILDING):

CMA NO.594-K OF 2020 IN CONST.P.NO.9 OF 2010

[M/s Madrasa Tahfeezul Quraan Al Karim Vs. Federation of Pakistan & others (matter regarding illegally constructed 18 floor building in a very sensitive area near Police Head Quarter at Garden Area)]

AND

HYPER STAR (RESIDENTIAL COMMERCIAL LOCALS):

CMA NO.617-K OF 2019 IN CONST.P.NO.9 OF 2010

[Application for intervener filed by Venu G. Advani Vs. (Against illegal conversion of plot from residential into commercial locals at Block 4, Scheme-5, Clifton Karachi)]

AND

P & T COLONY:

CMA NO.889-K OF 2019 IN CONST.P.NO.9 OF 2010

[Application for intervener filed on behalf of Pakistan Post through Postmaster General, Karachi Vs. (regarding ownership of P & T Colony also declared as Katchi Abadi)]

AND

K-ELECTRIC (CONNECTED WITH H.R.C. NO.20883/2018 PENDING AT PRINCIPAL SEAT, ISLAMABAD:

CRP NO.28-K OF 2020 IN CONST.P.NO.9 OF 2010

[K-Electric Limited Vs. Federation of Pakistan & others. (matter

regarding fatal incidents resulting from electrocution in the service territory of K-Electric)]

AND

ASKARI PARK:

CMA NO.1087-K OF 2021

[Naveed Ahmed Khan Vs. Federation of Pakistan and others (illegal usage of land of Askari Park for Commercial Activities and Marriage Hall)]

AND

FOOD STREET AT BURNS ROAD:

CMA NO.1095-K OF 2021

[Muhammad Imran Vs. Federation of Pakistan and others (matter regarding Food Street at Burns Road)]

AND

ENCROACHMENT OVER/BESIDES HINDU'S TEMPLES/MANDIRS:

CMA NO.1123-K OF 2021

[Kelash Kumar Vs. Federation of Pakistan & others (matter regarding encroachment over Hindu Temples/Mandirs)]

AND

SAIMA ROYAL RESIDENCY:

CMA NO.1129-K OF 2021

[Jawwad Ali Khan Vs. Federation of Pakistan and others (matter regarding Saima Royal Residency)]

AND

SMALL BUSINESSES RUNNING I.E. SUGARCANE CRUSHING MACHINES AT FOOTPATH/ROADS, ETC:

CMA NO.940-K OF 2020

[Muhammad Yousaf Vs. Federation of Pakistan & others (regarding Sugarcane Crushing Machine situated at Hasrat Mohani Road, near Cafe Victory, Karachi)]

AND

CHINA CUTTING OF AMENITY PLOTS:

CRL. M.A.121-K OF 2017 IN CRL.ORG.P.NO.7-K OF 2017

[Application for intervener filed by Muhammad Essa Vs. (60 Feet

land reserved for Bus Stop divided into 80 Sq. Yd. Plots-China Cutting Plot]]

AND

CRL.MA NO.38-K OF 2018 IN CRL.ORG.P.NO.7-K OF 2017

[Application for intervener filed by applicant namely, Akbar Hussain Vs. (against China Cutting of plots by manipulated documents of Plot No.R-160/4 & R-160/5, Sector 11, North Karachi. Fabricated against master plan, as these are amenity plots for Bus Stop/Car Parking/Green Belt etc.)]

AND

CMA NO.423-K OF 2019 IN CONST.P.NO.9 OF 2010

[Application for intervener filed by Porf. Dr. Muhammad Shahid Hussain Vs. (encroachment over public road in between St.6 to St.8, Gulshan-e-Iqbal, Block 4, KDA, Scheme-24, Karachi)]

AND

ENCROACHMENT OVER GREEN BELT (SHAHRAH E QUAIDEEN):

CMA NO.179-K OF 2020

[Application for intervener filed on behalf of Rashid Ali Vs. (against demolishing/sealing order of Friends Petrol Pump (Shell) on plot No.PP-1, Survey No.35, Pakistan Employees Cooperative Housing Society, Shahrah-e-Quaideen, Karachi)]

AND

CONVERSION OF PLOTS FROM RESIDENCIAL INTO COMMERCIAL:

C.P.NO.422-K OF 2020

[Mst. Zahida Naz Vs. Province of Sindh & others (petitioners have challenged the purported commercialization of the residential Plot No.A/216, Block C, Unit No.2, Latifabad, Hyderabad and its amalgamation with an amenity plot)]

AND

CMA NO.767-K OF 2020 IN CONST.P.NO.9 OF 2010

[Syed Masood Ahmed & others Vs. Federation of Pakistan & others (Defence Officers Housing Authority has been and its illegally converting various plots to used other than its original use)]

AND

C.P. NO.92-K OF 2020

[Karachi Chamber of Commerce and Industry Vs. Karachi Metropolitan Corporation and others (Coverision of residential land into commercial i.e. Plot No.79, Survey Street No.C-F 1-5, Old Clifton, KDA Scheme-5, Karachi)]

AND

C.P. No.93-K OF 2020

[Karachi Chamber of Commerce and Industry Vs. Karachi Metropolitan Corporation and others (Conversion of residential land into commercial i.e. Plot No.79, Survey Street No.C-F 1-5, Old Clifton, KDA Scheme-5, Karachi)]

AND

VACATION OF 35000 AMENITY PLOTS AT 112 SITES OF KDA SCHEME/TOWNSHIP:

CRL.ORG.P.NO.19-K OF 2017 IN CRL.ORG.P.NO.7 OF 2017

[Ghulam Muhiyuddin Vs. Province of Sindh through Secretary Local Governmnet and others (matter pertains to 35,000 plots at 112 sites of KDA Schemes/Townships will be got vacated and recovered and put to use for which they were originally meant in master plan)]

AND

CRL.MA NO.124-K OF 2017 IN CRL.ORG.P.NO.7-K OF 2017

[Application for intervener filed by Muhammad Ismail Shaheedi Vs. (regarding lands illegally occupied by land grabbers in Karachi)]

AND

CRL. MA NO.132-K OF 2017 IN CRL.ORG.P.NO.7-K OF 2017

[Application for intervener filed by AOR for the applicant Anjuman-e-Kalayna Vs. (Amenity plot allotted for Kalayana Community Centre at North Karachi as illegally demolished by respondent)]

AND

CRL.MA NO.111-K OF 2018 IN CRL.MA NO.132-K OF 2017 IN CRL.ORG.P.NO.7-K OF 2017

[Application for withdrawal filed by in person namely Anjuman-e-Kalayana through its President)]

AND

CRL.MA NO.243-K OF 2018 IN CRL.MA NO.8-K OF 2018 IN CRL.ORG.P.NO.7-K OF 2017

[Application for withdrawal filed by in person, namely, Anjuman-e-Sadat-e-Amroha through its President]

AND

CRL.MA NO.8-K OF 2018 IN CRL.ORG.P.NO.7-K OF 2017

[Application for intervener filed on behalf of Anjuman Sadat-e-Amroha Vs. (for restraining from demolishing further construction on the applicant plot which was allotted by KDA to Anjuman on

06.08.1974]]

AND

CRL.MA NO.19-K OF 2018 IN CRL.ORG.P.NO.7-K OF 2017

[Application for intervener filed by Mr. A.S.K. Ghori, AOR on behalf of applicant namely, Muhammad Jaffar Vs. (for removal of encroachment and unauthorized illegal construction around Saddar and Katrak Road Karachi and has also requested that order dated 29.11.2017 be enlarged and stretch to encompass the Cantonment Area)]

AND

CRL. MA NO.20-K OF 2018 IN CRL.ORG.P.NO.7-K OF 2017

[Application for intervener filed by Muhammad Raees Vs. (regarding encroachment on applicant's plot by construction boundary wall thereon by Mr. Hussain Rajpar, Land Grabber)]

AND

CRL.MA NO.72-K OF 2018 IN CRL.ORG.P.NO.7-K OF 2017

[Application for intervener filed by Mr. Mazhar Ali B.Chohan, AOR on behalf of Anjuman-e-Musalman-e-Kalayana Vs. (seeking direction to restrain KDA & SBCA not to demolish Girls College, Girls School, Coaching Centre and Medical Centre established on amenity plot)]

AND

ENCROACHMENT OVER AMENITY PLOTS:

CMA NO.59-K OF 2019 IN CONST.P.NO.9 OF 2010

[Application for intervener filed by Syed Arif Shah Vs. (encroachment on amenity plot allotted at Orangi for establishing Muslim Missionary College & Allied Institutions)]

AND

CMA NO.349-K OF 2019

[Application for intervener filed on behalf of Public Interest Law Association of Pakistan Vs. (for seeking direction of this Court to have Amenity Plots of Karachi developed with parks and playground with the coordination of the relevant authorities)]

AND

CMA NO.875-K OF 2019 IN CONST.P.NO.9 OF 2010

[Application for intervener filed by Muhammad Saleem Qureshi Vs. (regarding cancellation of false & fabricated lease granted on amenity plot at Bihar Colony, Layari)]

AND

CMA NO.933-K OF 2019 IN CONST.P.NO.9 OF 2010

[Application for intervener filed by Mrs. Mahamadi Vs.(regarding demolishing of all illegal construction and usage of public property on main Korangi service road)]

AND

CM APPEAL NO.139 OF 2020 IN CMA NO.NIL OF 2020 IN CMA NO.933-K OF 2019 IN CONST.P.NO.9 OF 2010

(Samira Mahamadi Vs. The Registrar, Supreme Court of Pakistan (for correction of order dated 13.08.2020))

AND

CMA NO.202-K OF 2020

[Application for intervener filed on behalf of AVA Ardeshir Cowasjee (regarding allotment of Plot No.9B, GKI, Ghulam Hussain Kasim Quarters Karachi, which was designated for the purpose of ejector sump pump by KW&SB)]

AND

CMA NO.281-K OF 2020

[Application for intervener filed on behalf of the Karachi Goan Association (Applicant has alleged that Plot No.J.M.1/79, Jamshed Quarters, was allotted for Establishment of Gymkhana, but KIDCL has issued a letter for possession of said property for establishment of camp office for Green Line BRTS)]

AND

CRL.MA NO.32-K OF 2018

[Application for intervener filed by Mr. Ghulam Qadir Jatoi, AOR (Applicant has paid all dues on account of a plot in new Malir Housing Scheme No.1, instead of issuing allotment order a notice recived to him for payment of Rs.40000, on objection he was intimated that said amount is required for grid station)]

AND

CRL. MA NO.1-K OF 2019

[Application for intervener filed by Mr. Mazhar Ali B. Chohan, AOR on behalf of Moulana Muhammad Ali Johar Memorial Cooperative Housing Society (seeking direction for removal of encroachment from the plot of applicant society i.e. Mollana Muhammad Ali Johar Memorial Cooperative Housing Society)]

AND

CRL. M.A. No.34-K/2020

[Application for intervener filed by Mr. Ghulam Rasool Mangi, AOR on behalf of M/s Fatima Jinnah Dental College & Hospital Trust (matter pertains to non-profitable educational institution/trust for

Dental Collage/Medical and Dispensary purpose on plot
No.AM/1/B at Bhattai Colony “Amenity Plot”]]

AND

CMA No.761-K OF 2020

[Abdul Haq Abbasi Vs. Federation of Pakistan, etc. (matter
regarding encroached over state property (i.e. Street/Road)
situated at Sindh GOR-II, Muslim Society Karachi)]

AND

CMA No.808-K of 2020 IN CMA No.459-K of 2020

[Muhammad Ameer Shah Vs. Federation of Pakistan and others
(Applicant alleged that illegal occupants have encroached over
2000 million road at North Karachi which cause inconvenience to
the peoples of said areas)]

AND

CM APPEAL NO.16 OF 2021 IN CONST.P.NO.9 OF 2010

[Haji Abdul Razziq Khan Vs. Federation of Pakistan & others
(Applicant has alleged that some persons along with Society
Member have encroached upon park and Club Land “Amenity Plot
at PECHS”)]

AND

CMA NO.782-K OF 2021

[Malik Jameel Ali Vs. Federation of Pakistan & others (matter
regarding Custom Preventive Service Cooperative Housing Society
and removal of encroachment from Green Belt from parking area
and service road)]

AND

CP NO.599-K OF 2021

[Mumtaz A. Qureshi Vs. The Province of Sindh & others (matter
pertains to encroachment upon the gardens/parts, amenity plots
playground and Footpath in the city of Nawabshah/Shaheed
Benazirabad)]

AND

CMA NO.1014-K OF 2021

[Muhammad Kabeer Malik and others Vs. Province of Sindh and
others (matter pertains to encroachment upon the gardens/parks,
amenity plots, playground and Footpath in the city of
Nawabshah/Sheheed Benazirabad)]

AND

**CMA NO.966-K OF 2021 IN CRP NO.NIL-K OF 2021 IN CONST.P.NO.9
OF 2010**

[Azhar Ahsan Thanvi Vs. Federation of Pakistan & others (matter regarding encroachment over Plot No.ST-14)]

AND

CMA NO.1006-K OF 2021

[Azhar Ahsan Thanvi Vs. Federation of Pakistan & others (matter regarding encroachment over Plot No.ST-14)]

AND

CMA NO.1040-K OF 2021 (Application for withdrawal of earlier CMA No.1006-K of 2021)

[Azhar Ahsan Thanvi Vs. Federation of Pakistan & others (matter regarding encroachment over Plot No.ST-14)]

AND

CMA NO.971-K OF 2021 IN CRP NO.NIL-K OF 2021 IN CONST.P.NO.9 OF 2010

[Muhammad Khan Parhar & others. Vs. Federation of Pakistan & others (matter regarding encroachment over Plot No.ST-14)]

AND

CRL.ORG.P. NO.10-K OF 2021

[Muhammad Irfan Vs. Federation of Pakistan & others (matter regarding encroachment over 51 Plots of Gulistan-e-Johar)]

AND

CMA NO.1097-K OF 2021

[Ideal (Private) Limited Vs. Federation of Pakistan (matter regarding encroachment over Amenity Plots and ST-13 on account of Sanad with respect of some Haji Ibrahim Panhwar Goth) (Korangi Industrial Area)]

AND

CMA NO.1164-K OF 2021

[Zohaib Yousuf Vs. Federation of Pakistan and others - matter regarding illegal construction of multi story five tower (RJ Towers & Royal Icon) 24 stories each on amenity plot of Baloch Goth 13-D/3, Gulshan-e-Iqbal, Karachi)]

AND

ILLEGAL ENCROACHMENT OVER PLOTS OF INDIVIDUAL:

CRL.MA NO.71-K OF 2018 IN CRL.ORG.P.NO.7-K OF 2017

[Application for intervener filed by Muhammad Hussain, in person (against encroachment by the land grabber on 51 Plots of the applicant at Sector 51-C, Korangi Township, Karachi)]

AND

CRL.MA NO.95-K OF 2018 IN CRL.ORG.P.NO.7-K OF 2017

[Application for intervener filed by Imdad Hussain, applicant in person (against notice issued by the KDA for demolition/vacating of the house of applicant i.e, House No.318, Sector 6-B, Mehran Town, Korangi Industrial Area, Karachi)]

AND

CLR.MA NO.214-K OF 2018 IN CRL.ORG.P.NO.7-K OF 2017

[Application for intervener filed by Salman Muhammad (for seeking directions to stop Anti-encroachment operation against the poor villagers Gulshan-e-Saiful Mance, Sector 8, Scheme 41, Surjani Town, Karachi)]

AND

CRL.MA NO.2-K OF 2019 IN CRL.ORG.P NO.7-K OF 2017

(Application for intervener filed by Muhammad Farhan (against illegal demolition of the lawful construction on the plot owned by applicant, as it was offered by KDA illegally in compensation to Mst.Sabiha Parveen)]

AND

CMA NO.521-K OF 2019 IN CONST.P.NO.9 OF 2010

[Application for intervener filed by Murtaza Ali (regarding illegal encroachment on Plots No.33 and 34, PR-II, Preedy Quarters, Karachi)]

AND

CMA NO.527-K OF 2019 IN CONST.P.NO.9 OF 2010

[Application for intervener filed by Advocate Aqeel Hassan Khan (illegal construction of Masjid on Plot No.R-07, Longlife Bungalows Block-17, Gulistan-e-Johar)]

AND

CMA NO.162-K OF 2020

[Application for intervener filed on behalf of Ms.Muneera Khatoon (against illegal encroachment over plots bearing Nos.46-F & 46-G, situated at Bihar Colony, Shah Abdul Latif Bhattai Road, Karachi)]

AND

CMA NO.193-K OF 2020 IN CONST.P.NO.9 OF 2010

[Application for intervener filed by Khawaja Muhammad Asghar (regarding encroachment of Plots No.B-100 & B-113, Block-10, Gulistan-e-Johar, Karachi)]

AND

CMA NO.762-K OF 2020

[Syed Khurram Iqbal Vs. Federation of Pakistan & others (matter pertains to encroached land situated in Aligarh Muslim University Old Boys Cooperative Housing Society Ltd., Gulzar-e-Hijri Scheme No.33)]

AND

DISCRIMINATION/GRIEVANCES WITH REGARD TO ENCROACHMENT DRIVE:

CMA NO.425-K OF 2019 IN CONST.P.NO.9 OF 2010

[Application for intervener filed on behalf of Muhammad Jibran Nasir and others (matter regarding discrimination & grievances with regard to anti-encroachment operation in Karachi)]

AND

CRL.ORG.P.NO.5-K OF 2020 IN CONST.P.NO.9 OF 210

[Mohammad Jibran Nasir & others. Vs. Mr. Habib ur Rehman Gillani & others (matter pertains to resettlement and rehabilitation plan for the affectees who have been disposed or dislocated due to the anti-encroachment drive)]

AND

CMA NO.809-K OF 2020 IN CMA NO.460-K OF 2019 IN CONST.P.NO.9 OF 2010

[Yousuf Masih Vs. Federation of Pakistan & others. (regarding grievances of people of Salman Brohi Goth as they apprehend to be disposed/vacated from the land in question)]

AND

ALLEGATION LEVELED AGAINST GOVERNMENT OFFICIALS:

CMA NO.82-K OF 2020

[Application for intervener filed by Syed Mehmood Akhtar Naqvi (regarding corruption allegations against mentioned officials of SBCA and highlighted the illegal construction & encroachment in certain areas of Karachi)]

AND

CMA NO.336-K OF 2020 IN CONST.P.NO.9 OF 2010

[Mr. Imran Ayub Khan Advocate Vs. Federation of Pakistan & others (issue regarding title documents the people living at Allah Bux Goth registered as Kachiabadi)]

AND

CRL. ORG.P. NO.1-K OF 2020 IN CONST.P NO.9 OF 2010

[Syed Mehmood Akhtar Naqvi Vs. Qazi Shahid Pervaiz, Sr. Member Board of Revenue, Government of Sindh & others)]

Mr. Obaid ur Rehman Khan, ASC
 Mr. Naveed Ahmed Khan,
 Joint Secretary, PECHS
 Asma Batool, A.C. Ferozabad
 Kelash Kumar, in person.
 Mr. Sajeel Shehryar Swati, ASC
 Dr. Raana Khan, AOR
 Mr. Mazhar Ali B. Chohan, AOR/ASC
 Mr. Kashif Sarwar Paracha, Addl. AGP
 Mr. Khaliq Ahmed, DAG
 Azra Muqeem, Legal Advisor
 Afzal Zaidi, M/C
 Barrister M. Omer Riaz, ASC
 via video-link Lahore

Date of Hearing : 28.12.2021

ORDER

GULZAR AHMED, CJ.-

Gutter Baghicha **(Report No.128-K and 135-K of 2021)**

The Chairman, K.M.C. Officers Housing Society, requests that the matter may be fixed at Islamabad as he is not fully prepared with the case. Adjourned to **11.01.2022**, at 1:00 p.m., at Islamabad.

C.M.A. Nos.826-K of 2020, 773-K of 2021, Report No.138-K and 142-K of 2021, C.M.A. Nos.1251-K of 2021, Report No.150-K of 2021, C.M.A. Nos.1258-K, 1261-K and 1264-K of 2021

2. Mr. Rashid A. Rizvi, Senior ASC, requests for adjournment as he has not received some reports filed by the respective parties in the case and that he shall obtain the same from the office and prepare himself to argue the matter.

3. Adjourned to **04.01.2022**, to be taken up at Islamabad, at 1:00 p.m. The parties, who are unable to appear at Islamabad, may appear from Branch Registry Karachi through video-link.

Hill Park
(Cr.O.P. Nos.13-K & 14-K of 2021)

4. Mr. Anwar Mansoor Khan, Senior ASC for the petitioners contends that the petitioners' houses on the Hill Park land were demolished pursuant to the order of this Court dated 10.08.2020 and it was also noted in the order that the owners of the houses may seek whole or part of the compensation from PECHS in accordance with law. Learned counsel states that the petitioners have approached the PECHS for granting of compensation but the PECHS has denied their liability. If that being so, the petitioners may file a suit for recovery of compensation and if such suit is filed by the petitioners, it is excepted that the same will be decided, preferably within a period of one year. These criminal original petitions stand disposed of.

Kidney Hill Park
(C.M.A. No.714-K of 2020)

5. The applicant claims that there is a provision for Al-Fatah mosque on the land of Kidney Hill Park and in this respect the applicant has also referred to a license dated 25.04.1983 and the same apparently is signed by some KMC official, filed at page No.94 of the C.M.A. Learned counsel for the applicant states that this mosque is not built in the Kidney Hill Park rather on a separate plot of land. The Commissioner Karachi so also the Assistant Commissioner Ferozabad (East) state that a *Kacha Mosque*, in fact, was raised on the land of the Kidney Hill Park and such was removed pursuant to the order of this Court dated 08.04.2021.

6. The Commissioner Karachi so also the Assistant Commissioner state that there is no obstruction by anyone on Kidney Hill Park to make a prayer but construction of a mosque is not provided in the layout plan of the Kidney Hill Park and as per the order of this Court all other structures have been removed and the Kacha structure of the mosque was also removed. Learned counsel for the applicant states

that there is one Bismillah Mosque in the Kidney Hill Park. The Assistant Commissioner also admits that such a mosque does exist in the Kidney Hill Park. The whole of the layout plan of Kidney Hill Park does not contain any provision for building of a mosque in the park but any person, who wants to make a prayer, is allowed to pray in whole of the park and there is no obstruction or impediment in the same. Once a plan did not make provision for construction of a mosque in the park, in our view, allowing such construction to be made is totally against the rule, law and the approved plan of the Kidney Hill Park. Such is also not permissible under Muslim jurisprudence for any mosque to be established and such has to be done by procuring the land and consideration for the said land has to be paid. Apparently, the KMC which is looking after the Kidney Hill Park itself had no authority in law to make allotment or to give license for construction of the mosque in the Kidney Hill Park and apparently the license issued by the KMC dated 25.4.1983 is, *ex facie*, illegal and does not create any right of any person in the land of the Kidney Hill Park. The license only gave a possessory right and such right also did not culminate into the ownership or giving any title to the licensee under a license and such is liable to be revoked for no *Pakka* construction at all in the Kidney Hill Park nor can it be allowed, while the prayer can be made in whole of the park. Consequently, while declaring the license dated 25.4.1983 to be illegal, same is also cancelled and the land mentioned in the license is restored to the park.

7. As regards, Bismillah mosque, same is the case with it and if any document in its favour has been executed by any person or authority, same is also illegal and cannot be sustained. The said Bismillah mosque is also to be removed and Commissioner Karachi is directed to conduct such operation and remove the same and put up a

report before this Court. There was stated to be only one grave in Kidney Hill Park and now it is stated that there are some number of graves. Whether these graves were existing and who are buried in those graves, nothing is known nor anything is on the record regarding them. The Commissioner Karachi shall ensure that the land of the park is retrieved as a whole and if there is a genuine grave, the same should be protected but no one should be allowed to stay in/around the grave and no sort of construction should be allowed. The Commissioner Karachi shall also explore a possibility of shifting of the graves from Kidney Hill Park to the properly declared graveyard and take appropriate measures in this regard in accordance with law. The application is accordingly disposed of.

It is pointed out by the Assistant Commissioner that adjacent to the Kidney Hill Park, there are two plots bearing Nos.86 & 86-A on which houses have been constructed. In both these plots, gates have been opened towards Kidney Hill Park which are not permissible by law and because of the creation of these gates, the Kidney Hill Park is used as a passage for these houses and the gate of the park remains open 24 hours and anti social elements enter into the park land and do mischief. The Assistant Commissioner has requested that the gates of these two plots of land opening towards the Kidney Hill Park may be removed and permanent wall should be raised in order that no entrance from the plots is made in the Kidney Hill Park. We note that these houses and all other houses providing gates on the park land have no right to provide such gates or to treat the park as their backyard. They even do not have easementary right in the park land. Consequently, the Commissioner Karachi shall ensure that no gates of any house existing adjacent to the Kidney Hill land shall be allowed to open in the Kidney Hill Park and if there are any such gates including gates in plot Nos.86 & 86-A, the same

shall be removed and in their place, proper wall should be erected. The Administrator K.M.C. shall ensure that proper gates are installed at all entry points of the Kidney Hill Park with security staff.

C.M.A. No.1123-K of 2021

8. This application be fixed along with CMA No.4821/2018 in S.M.C. No.1 of 2014 pending at the Principal Seat, at Islamabad regarding minorities and their religious places.

Report No.139-K of 2021 and C.M.A. No.1142-K of 2021.

9. There is a plot bearing No.AP-30 on Main Tariq Road stated to be 1095 square yards in the layout plan of PECHS. This plot has been shown as a park. It seems that the park land has been encroached upon and a mosque by the name of Madina Masjid has been constructed and whole of the park has been occupied by the Madina Masjid except a corner showing perhaps a sub-station of K-electric. The Administrator D.M.C. (East) is present and acknowledges that on the park land a big mosque has been constructed and that he will ensure that the land is restored to the park and all illegal construction raised on it is removed. A person claiming to be a committee member of Madina Masjid has appeared who has not given any assistance to the Court nor could justify existence of the *Masjid* on the park land. The Administrator shall with due diligence ensure that the park is restored. The report in this regard shall be submitted by the Administrator D.M.C. (East) in Court within one week.

Sd/-Gulzar Ahmed, CJ
Sd/-Qazi Muhammad Amin Ahmed, J

Bench-I
Karachi

28.12.2021

'APPROVED FOR REPORTING'

Ghulam Raza/*