JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

WRIT PETITION NO. 3479 OF 2021

MUHAMMAD SHAMRAIZ

VS

POLICE TRAINING SCHOOL THROUGH ITS COMMANDANT, ETC.

Petitioner by : Mr. Jan Muhammad Khan, Advocate.

Respondents by : Raja Zamir Ud Din Ahmed & Mr. Sarfraz Rauf, AAG.
Mr. Taimoor Janjua, State counsel for Chief Commissioner Office, Islamabad.
Mr. Amjad Iqbal, Deputy Director (Litigation) on behalf of I.B.
Mr. Shahzad Saleem ASI, I.B.
Mr. Ihsan ul Haq, S.I, P.S Nilore.

Date of hearing : 05.03.2025

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition, the Petitioner has assailed the Notice No.CDA/Dir BC-South(DD-1)/21-A/2021 dated 23.09.2021 **("Impugned Notice")** issued by the Capital Development Authority **("CDA")/Respondent No. 2** and Notification No. 961/2(220)-DRA dated 06.09.2021 **("Impugned Notification")** issued by the Land Acquisition Collector, Islamabad Capital Territory, Islamabad **("Respondent No. 4")**. The Petitioner also requested for direction to the Respondents to refrain from interfering with his property and that of his family members.

2. The brief facts of the case in hand as per the Memo of Petition are that the Petitioner is owner in Mouza Tumair and as per his rights of ownership in said Mouza, he is entitled to a joint holding /Shamilat of 30 Kanals and 03 Marlas along with his other family members, as being the legal heirs of one Walayat (real father of the Petitioner). Besides the Petitioner's family, all of his cousins are entitled to a joint holding of 192 Kanals and 14 Marlas in Shamilat/ joint holding of Mouza Tumair, which is situated in Khasra No.5907 comprising over 7720 Kanals and 18 Marlas of land. Through Award dated 24.08.1981, CDA acquired 556 Kanals and 10 Marlas of land in Mouza Tumair in Khasra Nos. 5850, 5851/2, 5852/2, 5853/2, 5854 to 5856, 5857/2, 5858/2, 5863/2, 5864/2, 5865, 5866/2, 5867 to 5882,

5883/3-2, 5884/2, 5885/2, 5886/2, 5887, 5888/2, 5889, 5890, 5891/3-2, 5893/3-2, 5894, 5907/9/7/3/1, 5924/1 and 5177/2, and besides this, CDA has never acquired a single inch of land out of the joint holding of Mouza Tumair situated in Khasra No. 5907. In late 80's, Respondent No. 1 [Police Training School] was established by the Government in the said acquired land of CDA which is duly fenced by then, and as a matter of fact, besides the premises of Respondent No. 1, Soan Nullah (bearing Khasra No. 6177) flows on western side of it, and across Nullah Khasra No's. 5875, 5876 and 5877 are situated and after that joint holding / Shamilati Khasra No. 5907 is situated and this huge number falls on the Western and Northern side of Respondent No. 1 across the Nullah. The Petitioner occupies his respective portion of joint holding and has also built a superstructure inside the fence covering his entire share of land, and from the last one and a half years, Respondent No. 1 started interference in the personal property of the Petitioner and others and whenever Petitioner attempts to raise any construction or do any field work over his said joint holding, every time Respondent No. 1 sends the armed personnel of ATS to pressurize the Petitioner and rest of his family members to back out from their own property, as Respondent No. 1 is attempting its level best to illegally occupy the ancestral property of the Petitioner and his family members. On 18.03.2020, the Petitioner moved application to Respondent No. 6 [S.H.O. Police Station Nilore, Islamabad] and on the same day, his cousins were doing field work over their property and the ATS armed personnel took them to ATS compound on gun point and illegally confined them in room and tortured them. Apart from that on several other occasions i.e. 22.11.2020, 01.06.2021, 03.06.2021, 23.06.2021 and 02.07.2021 Applications were moved to Respondent No. 6 and once to Inspector General of Police for redressal of his grievance but every time they sternly refused to cooperate with the Petitioner and always apologized by saying that no action can be taken against Respondent No. 1 and every time Respondent No. 6 refused to help the Petitioner by saying that he has already informed Respondent No. 5 [Superintendent of Police, Rural, Islamabad] regarding the occurrence, but he has not allowed to proceed against Respondent No. 1. Feeling aggrieved from the conduct of Respondents No. 1, 5 and 6, the Petitioner in order to sort out the dispute moved an Application to CDA on 02.06.2021, through Director RP Zone IV, whereby he requested to clarify the entitlement of Respondent No. 1 where after a joint demarcation led by Respondent Nos. 2 and 3 [Chief Commissioner, ICT] was conducted in presence of

the Petitioner and Respondent No. 1, wherein Respondent No. 2 arrayed Boundary mark/*Butti* over its owned as well as illegally occupied land and even that demarcation specified that besides ATS Compound, property of Respondent No. 2 falls on the northern side of Petitioner's and his relatives' property and that too way across the Soan Nullah, but due to highhandedness of Respondent No. 1, concerned department has not issued the demarcation report despite arraying Boundary mark / *Butti* in front of numerous people of locality. That from the very establishment of Respondent No. 1/Police Training School, no express order or permission is available on the record of Respondents Nos. 2 & 3 for its establishment, and after initiation of legal proceedings by the Petitioner, Respondent No. 1 started managing its record and by pressurizing the rest of the Respondents got issued the Impugned Notification from Respondent No. 4 on 06.09.2021, for acquisition of land for establishing Respondent No. 1/Police Training School in Mouza Tumair which as a matter of fact was established over the same land owned by CDA in late 80's and as per the Impugned Notification, total property so awarded to Respondent No. 1 is 90 Kanals and 19 Marlas. On 23.09.2021, Respondent No.1 after getting issued the Impugned Notice from Respondent No. 2 once again approached the Petitioner's land and his family members and astonishingly on the same day Commandant, Respondent No. 1 along with five armed personnel arrived at spot for service of notice issued by CDA, and after putting Petitioner's nephew namely Mansoor under the fear of life, forcibly obtained his signature over a blank paper which was duly witnessed by a couple of persons, regarding which the Petitioner once again moved an Application to the Respondent No. 6 on the same day, but in vain. Feeling aggrieved of the said illegal acts on the part of the Respondents, the Petitioner has filed the present Writ Petition.

3. The learned counsel for the Petitioner argued that the impugned action of the Respondents is illegal, arbitrary, unlawful and against the rights of the Petitioner; that Respondents are exceeding jurisdiction in acting upon the aforesaid manipulated design of Intelligence Bureau for illegal occupation of property and for permanently dispossessing the Petitioner and rest of his family members from their ancestral property; that occupation of 1000 Kanals of property by CDA against entitlement of 556-10 is altogether illegal and is nothing more than the colorful exercise of power by CDA officials, and grant of any other property apart

from the said acquired piece of land specially in Khasra No. 5907, is not in the jurisdiction of CDA or any other Respondent or Authority, and the same is exclusively the personal property of the Petitioner and other locals of vicinity; that these acts of the Respondents are in violation of the fundamental rights of the Petitioner, guaranteed to him by the Constitution of the Islamic Republic of Pakistan, 1973; that non-issuance of the Demarcation Report by CDA and Respondent No. 3 is an illegality on their part and thereby they both are favoring Respondent No. 1 in its nefarious design of taking over the ancestral land of the Petitioner and others without any acquisition whatsoever; that all the Respondents are in cahoots with each other and are attempting their level best to defeat the process of law and illegally incorporate the possession of Respondent No. 1 or CDA or Respondent No. 3 in Khasra Girdawari after dispossessing the Petitioner and rest of the owners from their respective lands. Lastly, the learned counsel prayed that by accepting the instant Petition, a writ may graciously be issued against Respondents, directing them to restrain from interfering in the personal property/land of the Petitioner and his family members; that a writ may also be issued declaring the Impugned Notice and Impugned Notification issued by CDA and Respondent No. 4, respectively as illegal, unlawful and unwarranted.

4. On the other hand, the learned counsel for the Respondents vehemently opposed the arguments of learned counsel for the Petitioner and prayed for dismissal of instant Writ Petition as being not maintainable.

5. I have heard the learned counsel for the parties and have also perused the record with their able assistance.

6. The Petitioner has challenged the Impugned Notification issued under Section 4 of the Land Acquisition Act, 1894 **("Land Acquisition Act")** vide which Respondent No. 4, intimated for acquiring land situated in Mouza Tumair, Islamabad for CDA and Respondent No. 3. For ready reference, Section 4 of the Land Acquisition Act is reproduced here as under: -

> ***4. Publication of preliminary notification and powers of officers thereupon.*** *___* ***[(1)*** *Whenever it appears to the Collector of the district that land in any locality is needed or is likely to be needed for any public purpose or for a Company, a notification to that effect shall be published in the official Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.]*

> ***(2)*** *Thereupon it shall be lawful for any officer, either generally or specially authorised by such Government in this behalf, and for his servants and workmen,---*
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> > *to enter upon and survey and take levels of any land in such locality;*
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> > *to dig or bore into the subsoil;*
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> > *to do all other acts necessary to ascertain whether the land is adapted for such purpose;*
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> > *to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;*
> >
> > *to mark such levels, boundaries and line by placing marks and cutting trenches; and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:*
> >
> > *Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so*
>
> *[Provided further that entire process of land acquisition shall be completed within a period of one year failing which the notification made under sub-section (1) shall stand revoked.].*
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> *[**(3)** The officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue officer of the district, and such decision shall be final."*

7. As appears from the record and not denied by the acquiring agency that the land was acquired for expansion of Anti-Terrorism Training School (ATTS) Simly. The question before this Court is as to whether the land can be acquired for the said purpose or not. The preamble of the land Acquisition Act which is key to open the statute, is self-explanatory and conveniently states that the land can only be acquired for public purpose and for companies. The preamble is reproduced as under:-

> *"Whereas it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of Compensation to be made on account of such acquisition."*

8. In view of above, it can easily be held, that the land can only be acquired for public purpose and for companies, whereas, in this case, the Respondent No. 4/Land Acquisition Collector, Islamabad issued the Impugned Notification under Section 4 of the Land Acquisition Act for the acquisition of 90 Kanal 19 Marlas of land in Khasra Nos. 5837 to 5843, 5844/2, 5845/2, 5846, 5847/2, 5848, 5849, 5859, 5860 to 5862 in Mouza Tumair, Tehsil & District, Islamabad, for the expansion of existing Anti-Terrorism Training School. As per the afore noted provisions of the Land Acquisition Act, the land can be acquired for the public purpose or a company meaning thereby the land can only be acquired by the Respondent No. 4/Land Acquisition Collector for public purpose and for a company duly registered under the law.

9. Now the question before this Court is that as to whether the said acquisition is required for public purpose and the Anti-Terrorism Training School is a company or not. The purpose of Anti-Terrorism Training School as mentioned in the comments of CDA and Respondent No. 3 is that the School imparts training to the IB personnel, it also caters to the needs of different organizations i.e. Civil Armed Forces, Navy, Air Force, Airport Security Force, Rangers, Strategic Plans Division setups, Police Anti-Terrorism Squad, Prime Minister/President Protection Squads, National Assembly Protocol Staff and Defense Security Guard (DSG). Moreover, number of firing ranges, including a Long firing range, were established after requisite calibration by Special Services Group of Pak Army Officers in early 80s and since then the ranges are operational in that area; that no other facility of Long Range Firing is available in Federal Capital and adjoining districts, hence, the facility is not only used internally for training of ATS Commandos but it caters to rising demands of Rangers, Police, DSG, ISI etc., quite frequently.

10. According to Black's Law Dictionary 8th Edition, the word "public purpose" is defined as *"an action by or at the direction of a government for the benefit of the community as a whole"*. In the present case, the Anti-Terrorism Training School is providing services of specialized trainings to law enforcement agencies and as such, it cannot be construed that the purpose of expansion of the said school can be termed as public purpose in *stricto senso*. But if the same is considered on a larger canvas, it indeed amounts to serve public purpose and if our law enforcement agencies are properly trained in specialized fields, then these agencies will be able to protect the lives of the general public. Thus, in my humble view, the purpose for

which land is required, will amount to public purpose. If a housing society is termed as public purpose in the light of judgment of august Supreme Court cited as *Federal Government Employees Housing Foundation (FGEHF) Islamabad versus Malik Ghulam Mustafa,* **2021 SCMR 201**, then specialized Training School's expansion will also come under the ambit of "public purpose" as our law enforcement agencies serves the purpose of securing the lives and properties of general public, hence, it can be safely said that the Respondent No. 4/Land Acquisition Collector is acquiring the land under the Land Acquisition Act. Anti-Terrorism Training School is a Government organization and is a specialized training school run by Government and for its expansion, land adjacent to the existing Training School is required.

11. For the acquisition of the land for the said purpose, No Objection Certificate was obtained from the CDA as required under CDA Ordinance, 1960 and the Land Respondent No. 4/Acquisition Collector issued the Impugned Notification in this regard. According to Sections 11 & 12 of the CDA Ordinance, 1960, necessary permission is required for acquiring land within the Islamabad Capital Territory. For ready reference, Sections 11 & 12 of the Ordinance *ibid* are reproduced hereunder: -

> *"**11. Master-plan and master programme.**—The Authority shall prepare a master-plan and a phased master-programme for the development of the Capital Site, and may prepare a similar plan and programme for the rest of the Specified Areas, and all such plans and programmes shall be submitted to the [Federal Government] for approval.*
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> ***12. Preparation of schemes by local bodies or agencies.— (1)** The Authority may, pursuant to the master plan and the master-programme, call upon any local body or agency operating in the Specified Areas to prepare, in consultation with the Authority, a scheme or schemes in respect of matters ordinarily dealt with by such local body or agency, and thereupon the local body or agency shall be responsible for the preparation of the scheme or schemes within a reasonable time.*
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> ***(2)** Such schemes, may relate to—*
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> ***(a)** land use, zoning and land reservation;*
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> ***(b)** public buildings;*
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> ***(c)** industry;*
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> ***(d)** transportation and communications; highway, roads, streets, railways, aerodromes;*

(e) tele-communications, including wireless, television, radio, telephone;

(f) utilization of water, power and other natural resources;

(g) community planning, housing, slum clearance, amelioration;

(h) community facilities including water supply, sewerage, drainage, sewage disposal, electricity supply, gas supply and other public utilities;

(i) preservation of objects or places of historical or scientific interest or natural beauty.

(3) The [Federal Government] may, by notification in the official Gazette, add to, alter or amend the list of subjects given in sub-section (2), and any such addition, alteration or modification shall take effect as if it had been enacted in this Ordinance.

(4) The expenditure incurred on the preparation of any such schemes as aforesaid shall be borne as agreed to between the Authority and the local body or agency, and in the event of disagreement between them as may be determined by the [Federal Government].

(5) No planning or development scheme shall be prepared by any person or by any local body or agency except with the concurrence of the Authority."

12. In view of the foregoing discussion, the purpose for which the Impugned Notification was issued is a public purpose as required by the Government. Therefore, both the Impugned Notice and the Impugned Notification are lawful and justified. As a result, the present Writ Petition, being without merit and misconceived, is hereby **dismissed**.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the Open Court on 7th day of April 2025.

JUDGE

--/Mehboob/--