JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

W.P. NO. 4740 OF 2022

ABDUL RAHIM.
Vs.
CAPITAL DEVELOPMENT AUTHORITY AND OTHERS.

Petitioner by	**:**	**Ch. Tanweer Akhtar, Advocate.**
Respondents by	**:**	**Mr. Nazir Jawad, Advocate.**
Date of hearing	**:**	**25.09.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the **"Constitution"**), Abdul Rahim **("Petitioner")** has prayed as under: -

i. Respondent Nos. 1 to 8 may kindly be directed to submit a complete, detailed report regarding the land of the Petitioner, whether the Petitioner's land (as per para-No.2 of the petition) is within the area of any illegal Society or Town or in the territory of mouza Bhadana Kalaan, Islamabad.

ii. Pay the compensation to the Petitioner due to illegal act committed by Respondent No.1 to 8 as they demolished the house of Petitioner without following the provision of law, CDA Ordinance, 1960, and Islamabad Capital Territory (Zoning) Regulation, 1992, Islamabad Capital Territory (Zoning) Regulation, 1992 (amended 2005) and under Article 10-A of the Constitution of Pakistan, 1973.

iii. Respondent Nos. 9 and 10 may also graciously be directed to submit a report regarding whether the Petitioner's land, the land mentioned in para No.2 of the petition, is within mouza Bhadana Kalan, Islamabad, or not, as the respondents Nos. 1 to 8 misused the order of the High Court.

2. The brief facts of the case, as per the contents of the petition, are that the Petitioner owns and possesses property bearing Khasra No. 568, 580/2, Khewat No. 318 and 209 measuring 40 Kanal 13 Marals in Mouza Bhadana Kalaan, Islamabad. The Petitioner's land is not acquired by CDA or any other Authority, as well the land in question is not located within the area of any Society or Town. A writ petition No.3320/2022 is pending adjudication before this Court

against the illegal and unlawful society, i.e., Zumer Valley. On 11-12-2022, the respondents No. 1 to 8, in compliance with the order dated 09-12-2022 and 25-11-2022 passed by this Court in that writ petition, demolished the old constructed house of the Petitioner, wherein the tenant of the Petitioner was residing. Being aggrieved, the Petitioner has filed the instant petition.

3. Learned counsel for the Petitioner contended that the Respondent No.1's report in writ petition No.3320/2022 failed to disclose any facts regarding the demolition of the Petitioner's house or whether it was within an illegal housing society or town.; that under section 2 (d) of CDA Ordinance, 1960 "building" includes "*any factory, industrial or business establishment, shop, godown, warehouse, house, outhouse, hut, hutment, shed, garage, stable, well or platform, and any other structure, whether meant for residential or business purposes or not, made of masonry, bricks, wood, mud, thatch, metal or any other material, but does not include a temporary structure made for purposes connected with agriculture*"; that the Respondents violated these provisions by demolishing the Petitioner's house without due process. Furthermore, according to the Islamabad Capital Territory (Zoning) Regulation, 1992, Zone-I covers specific sectors, and the Respondents acted against these regulations, violating principles of good governance, transparency, and fairness. Their actions are ultra vires and misleading to the Court, failing to follow the CDA Ordinance, relevant zoning regulations, and constitutional guarantees under Article 10-A.

4. Learned counsel for the Respondents No.1 to 7 vehemently resisted the arguments of learned counsel for the Petitioner and argued that the land of the Petitioner is situated in Zone-1 of the Islamabad Capital Territory which falls in Sector H-17 of Islamabad; that as per Master Plan of Islamabad, 1960, the Sectoral area of Islamabad was limited up to the 16th series of Sectors. That after the promulgation of the Capital of the Republic (Determination of Area) Ordinance, 1963, the 17th Series of Sectors was also added to the Federal Capital Site, and thus Sector H-17 became part of the Master Plan of Islamabad as Rural Periphery. Under the ICT Zoning Regulation-1992, Sector H-17 became part of Zone-1 of Islamabad Capital Territory, Islamabad. CDA has not yet acquired

land in Sectors D-14, D-15, E-14, E-15, D-16 (partial), H-13, H-14, H-15 and H-17. The land in these sectors is still owned by private individuals. He further argued that the land of the Petitioner falls under the prohibitory clause of the Zoning Regulations 1992 of Zone-I. The alleged demolition of the Petitioner's house was done according to the law and due procedure given under the law; that as per the rules and regulations, the Authority is empowered to strip the illegal construction, sale, and purchase, etc., in the land that falls under the area of Zone-I, which encompasses the Master plan of the capital. The Petitioner can approach the Revenue Department for proper demarcation of his land.

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

6. The main grievance of the Petitioner is that Respondents No.1 to 7 have illegally demolished the accommodation built by the Petitioner on land owned by him in Mouza Bhadana Kalaan, Islamabad, which has not been acquired by Capital Development Authority (CDA) and is private property that does not fall within Zone-I or Sector H-17, Islamabad.

7. As per the report submitted by CDA, Sector H-17 was not part of the Master Plan of 1960. Its area was included as part of the Capital Site in 1963. It was declared as a Sector in the ICT Zoning Regulation in 1992. As a continuation of Sector H-16, the Northern Half is taken as the Green Area/Buffer Zone, and the Southern Half as the Special Buildings and Institutions. Sector H-17 falls in Zone-1 of the ICT. As per provisions of Clause-4(1)(A) of ICT (Zoning) Regulation, 1992, the development of land in Un-acquired Sectoral Areas of Zone-1, shall be subject to the following conditions: -

i. **Land shall be acquired** under a phased programme and developed by the Authority in accordance with the land use pattern spelt out in the Master Plan;
ii. **No sale/purchase of land** which entails a change in land use shall be allowed;
iii. **No construction of houses or buildings shall be allowed.** However, repair of old houses and expansion of existing houses

may be allowed by the Authority to the native residents subject to the conditions that the site is located within the main body of the village. The covered area of such construction shall not exceed 1000 square feet including expansion and such permission shall not in any way impede the right of the Authority to acquire the property whenever needed; and

iv. **No private scheme of any kind whatsoever shall be allowed,** except in Sector E-11, Schemes in E-11 will be regulated according to the provisions applicable to schemes in Zone-2.

Sector H-17 comprises Mouzas Noon, Bhidana Kalaan, Bajnial, Barkat & Pharma.

8. The land owned by the Petitioner is situated in Sector H-17, which falls within Zone-1 of the Islamabad Capital Territory (ICT). In accordance with the applicable laws, regulations, and the Master Plan of Islamabad, Zone-1 is subject to the exclusive planning and development control of the Capital Development Authority (CDA). As such, the CDA is legally empowered to take action against unauthorized or illegal construction, including the sale and purchase of plots, and to carry out demolition where necessary in the said zone.

9. The Petitioner's house, located in Zone-1, was constructed without prior approval or sanction from the competent authority, namely the CDA. Given that construction in this zone without requisite approval is expressly prohibited, the demolition of the said structure by the CDA cannot be deemed unlawful or without jurisdiction. This legal position finds support in the judgment rendered by the Islamabad High Court in the case titled "*Shahzada Sikandar ul Mulk and 4 others v. Capital Development Authority and 4 others" (PLD 2019 Islamabad 365)*, wherein it was unequivocally held that no construction can be carried out within the territorial limits of the Islamabad Capital Territory without obtaining prior permission from the Capital Development Authority.

10. With respect to the precise demarcation of the Petitioner's land, the Petitioner may approach the relevant Revenue Authorities for a definitive determination of boundaries, as this Court is not the appropriate forum for such factual adjudication.

11. As for the claim for compensation raised by the Petitioner against the Respondents, it is well-settled that such relief, being in the nature of damages or monetary compensation, cannot be granted through a constitutional petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. The Petitioner, if so advised, may avail the appropriate remedy by instituting a civil suit before the competent civil court of jurisdiction.

12. In light of the foregoing legal and factual considerations, the instant writ petition is hereby ***disposed of*** accordingly.

(MUHAMMAD AZAM KHAN)
JUDGE

//*Sajid*//