JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 4762 of 2010

Syed Mumtaz Ahmed

Versus

CDA, etc.

Date of Hearing	:	16.05.2022.
Petitioner by	:	Rashad ul Musawar, Advocate
Respondent by	:	Ms. Wajiha Pervez, Advocate
State by	:	Syed Nazar Hussain Shah, AAG

ARBAB MUHAMMAD TAHIR, J. Through the instant writ petition, the petitioner is seeking direction to the respondents No. 1 to 4 i.e. Capital Development Authority (CDA) for handing over the possession of 2 Kanal Plot and ownership of the same in Parliamentarian Enclave Phase-V, Islamabad.

2. Facts of the case are that petitioner is Chief Editor in the daily newspaper Mashriq Quetta; that in the year 2003, respondent No. 5 launched a Housing Scheme with the approval of CDA *Parliamentarian Enclave Islamabad Zone-V,* with the support and consent of Chairman Senate/Speaker of National Assembly; that the petitioner invested amount of Rs. 1900,000/- in the said project, and the payments made through different cheque numbers; that in year 2006, petitioner was informed that a plot No. B-52 measuring 2 Kanal was allotted to him against the payments were already made but despite lapse of so many years, nothing has been handed over to the petitioner, even there is nothing on the site. Hence, instant petition.

3. Learned counsel for the petitioner contended that the respondent No. 1, 2, 3 & 4 cheated the petitioner and

committed a fraud; that the respondent No. 5 has not handed over the required plot to the petitioner despite the fact that payment of the said plot was received by the respondent No. 5; that the petitioner served the respondent No. 5 with legal notice for return of amount but to no avail.

4. The respondents No. 1 to 4 through their parawise comments submitted that the *Housing Scheme* was approved over an area measuring 414 Kanal vide Office Letter dated 09.04.2005, as per the terms and conditions of the approved layout plan, the sponsors were required to furnish detailed engineering design of the Scheme within three months from the date of issuance of approval which has not yet been provided. The Authority constantly pursuing the sponsors to complete the codal formalities as per modalities and procedure framed under the ICT (Zoning) Regulation 1992; that the sponsors of the scheme informed that two petitions have been filed by them in the NAB requesting exchange of land measuring 160 Kanals with M/s WWF and Sabir Hussain Shah and others; that the Authority has also requested NAB regarding the status of ownership and possession of land of M/s Ayaz Builders Pvt. Ltd., and policy statement of the sponsors regarding development schedule of *Parliamentarian Enclave Housing Scheme.* The sponsors have also been asked to provide clear status of land ownership possession, infrastructure design, the development schedule and booking record. In this regard show cause notice was also issued to the sponsors to comply with the instructions of the Authority as per the CDA modalities & procedures to ensure the concerns/investment of the people who have engaged themselves with the sponsors through purchasing the plots in the said Scheme.

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

6. It is evident from the record that the element of making payments as reveals in Para 5 of the petition is attributed to respondent No. 5 which, is a private entity and does not qualify status of “person performing functions in connection with the affairs of the Federation” therefore, petition in terms of Article 199 of the constitution of Islamic

Republic of Pakistan, 1973 against private entity is not maintainable.

7. On the aspect of imparting directions to the respondent CDA, it is noticed that the said respondents in its parawise comments has given the details of the effort so far made in terms that the Authority had been consistently pursuing the sponsors to complete the codal formalities in terms of ICT (Zoning) Regulations 1992. The sponsors have also been asked to provide clear status of land ownership possession, infrastructure design, the development schedule and booking record. In addition, the sponsors were also served with show cause notice to comply with the instructions in letter and spirit for ensuring the concerns/investments made by the public in general.

8. In view of above, no further proceedings in the instant writ petition are called for. It is accordingly disposed of. It is expected that the respondent Authority shall make every endeavor to protect and preserve the vested rights of the public in general.

(ARBAB MUHAMMAD TAHIR)
JUDGE

Announced in an open Court on _____05.2022.

JUDGE

//Kamran//