JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

WRIT PETITION NO. 4931 OF 2025

MALIK GUL ZAREEN AND ANOTHER

Versus

CAPITAL DEVELOPMENT AUTHORITY AND OTHERS

Petitioner by : Mr. Babar Khan, Advocate, Barrister Ali Abbas Raja and Malik Muhammad Zubair, Advocate.

Respondents by : Mr. Aamir Latif Gill, Advocate.

Date of hearing : 12.12.2025

MUHAMMAD AZAM KHAN, J.

1. Through the instant writ petition, the Petitioners are seeking to immediately halt the implementation of two specific Public Notices and any related balloting, allotment, or award processes, have those Notices declared illegal for violating a prior 2021 judgment, prohibit the Respondents from conducting any Built-Up Property (BUP) activities until a mandatory reassessment is properly completed, and a declaration that the benefits of the said 2021 judgment apply to them, specifically regarding a 2008 land acquisition award. In essence, they seek to stop an ongoing development process, invalidate its legal basis, and secure their rights under a previous court decision.

2. The Petitioners, landowners/affectees under a 2008 land acquisition award for Sectors D-13, E-13, and F-13, have filed this Writ Petition challenging two Public Notices issued by the Capital Development Authority (CDA) in September and November 2025. These notices initiate plot balloting, allotment, and Built-Up Property (BUP) survey activities for the said sectors. The Petitioners contend that these actions are unlawful as they contravene a binding judgment of the Islamabad High Court dated 14.06.2021 in W.P. No. 244/2018, which declared that all pre-2010 acquisition awards have lost legal efficacy and mandated a reassessment of compensation at current market rates, a directive the CDA has not yet complied with for their sectors. They further argue that the CDA's own board meeting minutes from 2022 acknowledged a restraining order

preventing such practical steps, and that while the CDA has filed an appeal against the 2021 judgment in the Supreme Court, the judgment remains in force as its operation has not been suspended, making the impugned notices a transgression of judicial authority and prejudicial to their rights.

3. The learned counsel for the Petitioners contended that the impugned Public Notices are unlawful as they flagrantly violate the binding *in rem* judgment dated 14.06.2021, which declared all pre-2010 acquisition awards legally ineffective and mandated compensation reassessment at current market rates. He argued that proceeding with balloting, allotment, and BUP activities under the outdated 2008 award constitutes an arbitrary deprivation of property, violates the Petitioners' fundamental rights under Articles 4, 9, 23, 24, and 25 of the Constitution, and reflects *mala fide* intent to create fait accompli while the CDA's own appeal against the judgment remains pending in the Supreme Court without any suspension of its operation. He further submitted that the CDA's reliance on a "land sharing policy" is irrelevant, as the 2021 judgment's principle of reassessment applies universally to all pre-2010 acquisitions, and the CDA's own 2022 board meeting recognized a restraining order barring such allotment steps, making the present actions contemptuous and without lawful authority.

4. The learned counsel for the Respondents (CDA) argued that the petition is not maintainable, as the Petitioners have an alternative statutory remedy under Section 36 of the CDA Ordinance and have failed to establish their *locus standi* or particularized grievance. He asserted that the 2008 acquisition was based on a specific land-sharing policy, not cash compensation, and thus falls outside the ambit of the 2021 judgment, which addressed different sectors. He maintained that the CDA is lawfully proceeding with plot allotment and BUP survey as per court directions to resolve longstanding issues, and that the Petitioners' non-cooperation with the survey process and their attempt to use litigation as pressure for undue benefits justifies dismissal of the petition.

5. In rebuttal, the learned counsel for the Petitioners emphasized that the 2008 award itself explicitly provides for cash compensation at a market rate for certain categories of landowners, directly contradicting the CDA's claim that it is purely a land-sharing scheme. He reiterated that the 2021 judgment is a

declaration of law applicable to all pre-2010 awards, and the CDA's own board meeting minutes clearly acknowledged a restraining order against allotment, demonstrating the illegality of the impugned notices. He concluded that the CDA's actions are a preemptive strike to prejudice the sub judice matter before the Supreme Court and must be halted.

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

7. The Capital Development Authority (Amendment) Ordinance, 2025, represents a significant legislative development in the law governing land acquisition in Islamabad, as it explicitly provides that compensation may be in the form of "monetary payment, land sharing, or any other method as determined by the Authority," with the amended law mandating that any land allotted under a sharing formula must be of "equivalent value, utility, and accessibility" to the acquired land, further requiring that the compensation package must be fair and ensure affectees are not left at a disadvantage, while also stipulating, crucially, that pending cases for rehabilitation benefits as of October 30, 2025, are to be "governed and guided" by the applicable Rehabilitation Policy in force at that time, and introducing a statutory right to additional compensation at 8% per annum for delayed payments, directly addressing the grievance of prolonged wait.

8. This Court is not oblivious to its own judgment dated 14.06.2021 in W.P. No. 244/2018. The Petitioners have forcefully and correctly argued that the judgment declared all pre-2010 awards legally ineffective and mandated reassessment. However, a material fact that alters the immediate legal landscape is the current constitutional challenge to this judgment, which is pending adjudication before the Honourable Supreme Court of Pakistan. While this appeal is pending, the supervening enactment of the 2025 CDA Ordinance by the President of Pakistan has provided a fresh, comprehensive, and clear statutory pathway for resolving the very compensation disputes at the heart of this petition. In a system where the separation of powers is foundational, this Court must give due deference to the will of the legislature as expressed in this new law. The Ordinance now provides the governing framework for all pending

cases, including the Petitioners', superseding the general directions issued in the 2021 judgment with specific statutory provisions.

9. The Petitioners also relied on the judgment in *Nawabzada Abdul Qadir Khan v. Land Acquisition Collector Mardan* **(2023 SCMR 950)**, which emphasized just compensation and rejected outdated valuation methods. The principles of justice and fairness enshrined in that judgment are not contradicted but are rather absorbed and codified within the new Ordinance.

10. The legislative mandate for "equivalent value" and a package that aligns with "principles of fairness and equity" directly echoes the constitutional imperatives highlighted by the Supreme Court. Therefore, the pathway forward under the Ordinance is fully compliant with the broader principles of law.

11. In light of the above, this petition is **disposed of** with the following directions, designed to provide clarity and a practical resolution under the new law:

(i) The Petitioners, along with all similarly situated affectees of the 2008 award for Sectors D-13, E-13, and F-13, shall have their claims for compensation processed exclusively under and in accordance with the provisions of the Capital Development Authority (Amendment) Ordinance, 2025, and the Rehabilitation Policy applicable as of October 30, 2025.

(ii) In line with the amended Section 29 of the CDA Ordinance, the Petitioners are at liberty to formally apply to the CDA for the grant of rehabilitation benefits, electing for compensation in the form of developed plots under the land-sharing scheme.

(iii) Upon the processing of such applications and the formal allotment of plots to eligible affectees, the Respondent CDA is directed to issue, within thirty (30) days of such allotment, a clear, binding, and publicly notified timeline for the development of the sector(s) in which the plots are located and for the delivery of possession. This direction is issued to ensure the benefit is real and not rendered illusory by indefinite delay.

(iv) For any period of delay in the payment or provision of compensation as finally determined, the Petitioners and all affectees shall be entitled to additional compensation at the statutory rate of 8% per annum as provided under the new Section 32A of the CDA Ordinance.

In conclusion, while this Court recognizes the legal arguments presented, the enactment of a specific law to govern this precise situation provides a superior

and definitive basis for resolving this dispute. The parties are directed to proceed under this new framework.

(MUHAMMAD AZAM KHAN)
JUDGE