

**IN THE HONOURABLE SUPREME COURT OF PAKISTAN**  
**(Original Jurisdiction)**

**Criminal Original Petition No. 5-K of 2020**

**In**

**Constitutional Petition No. 9 of 2010**

1. Mohammad Jibran Nasir,  
Son of Nasir Azhar Siddiqui,  
Muslim, Adult,  
Resident of 9/E, Askari 3,  
School Road, Cantt,  
Karachi
2. Dr. Nausheen Anwar  
Daughter of Tariq Jamil  
Muslim, Adult,  
Resident of House No. 15/2,  
Khayaban-e-Ghazi,  
Phase 5, DHA,  
Karachi
3. Syed Muhammad Ali Shah Kazmi,  
Son of Syed Muhammad Aslam Shah Kazmi,  
Muslim, Adult,  
Resident of Ghareeb Abad,  
P.I.D.C House,  
House No. A-3/35,  
Karachi..... Petitioners

**Versus**

1. Mr. Habib ur Rehman Gilani,  
Secretary,  
Ministry of Railway,  
4<sup>th</sup> Floor, D Block,  
Pakistan Secretariat,  
Islamabad
2. Mr. Mumtaz Ali Shah,  
Chief Secretary,  
Government of Sindh,  
Building No. 6,  
Sindh Secretariat,  
Saddar, Karachi
3. Mr. Waseem Akhtar,  
Mayor of Karachi,  
First Floor,  
Karachi Metropolitan Corporation,  
M A Jinnah Road, Saddar,  
Karachi

4. Mr. Itikhar Ali Shallwani,  
Commissioner Karachi Office,  
4-Club Road,  
Opposite Karachi Gymkhana,  
Civil Lines, Karachi

..... Alleged Contemnors

**PETITION UNDER ORDER XXVII, RULE 1, SUPREME COURT RULES, 1980,  
READ WITH SECTIONS 3, 6 & 12, OF THE CONTEMPT OF COURT  
ORDINANCE, 2003, FOR INITIATING CONTEMPT PROCEEDINGS**

On behalf of the Petitioner, it is most respectfully and most humbly prayed that this Honourable Court may be pleased to initiate contempt proceedings against the abovementioned Alleged Contemnors for the reasons as disclosed hereunder:

1. That the Petitioner No.1 is a law-abiding citizen of Pakistan who is an Advocate of High Court of Sindh, since 2013. He is also actively engaged in advocacy and litigation for protection of constitutional and fundamental rights of the citizens of Pakistan and against extremism, terrorism and the activities of proscribed organization. He also contested the general elections for both the National Assembly and the Sindh Assembly in 2013 and 2018, as an independent candidate. The Petitioner No. 2 is the Director of Karachi Urban Lab at IBA. She is Associate Professor City & Regional Planning, Department of Social Sciences & Liberal Arts (SSLA), Institute of Business Administration (IBA), Karachi, Pakistan. She received her PhD from the Graduate School of Architecture, Planning, and Preservation (GSAPP), Columbia University and also holds a MIA from the School of International and Public Affairs (SIPA), Columbia University. She has also been a post-doctoral fellow at Harvard University, Senior Research Fellow at the Asia Research Institute (ARI), National University of Singapore. Her work focuses on urban/infrastructural development and the role that policy-making and planning processes play in sustaining urban and regional inequality. The Petitioner No. 3 is a resident of Gharibabad Colony adjacent to Elander Road, near Railway Colony, Saddar; he apprehends eviction from his home as his colony has been identified, amongst 50 other *katchi abadis*, allegedly in the path of the Karachi Circular Railway. It is submitted that the Petitioners have filed an Intervenor Application i.e

3. That it is most humbly and most respectfully submitted that according to the aforesaid Order dated: 09.05.2019, passed by this Honourable Court, in Constitution Petition No. 9 of 2010, the Alleged Contemnors were required to prepare and implement a resettlement and rehabilitation plan for the affectees who have been or are expected to be dispossessed or dislocated due to the anti-encroachment drive, regarding the Karachi Circular Railway, within the time of one year from the passing of the abovementioned Order dated: 09.05.2019, i.e. by 09.05.2020. Moreover, the Alleged Contemnors No. 1 to 4 were also required to submit Progress Reports accordingly on the next date of hearing i.e. 06.08.2019. The Alleged Contemnors were, inter alia, required to do the following:

- i. The Alleged Contemnor No. 1, i.e. Secretary Railway was required to co-ordinate efforts with the Federal as well as Sindh Government and also from the Mayor, City of Karachi in order to ensure that all affectees who have been dislocated and/or are expected to be dislocated are accommodated appropriately. These efforts were supposed to be based on a list of affectees purportedly prepared by Alleged Contemnor No. 1.
- ii. The Alleged Contemnor No. 2 was required to provide the land upon which the affectees are to be resettled.
- iii. The Alleged Contemnors No. 1 & 2 were required to engage in planning and development experts in order to ensure the effective preparation and implementation of a resettlement and rehabilitation scheme for the affectees. They were also required to engage the assistance of relevant departments such as those related to environment authorities, works department.
- iv. The Alleged Contemnors 1 & 2 were specifically directed to ensure that the dislocated and dispossessed affectees are resettled and rehabilitated properly, meaning with proper amenities of a modern living, for example, safe building structures, equipped with all proper amenities and utilities such as water, sanitation, electricity and municipal works,

and accessibility to their places of earning livelihood, schooling, healthcare, public transport.

v. The Alleged Contemnors No. 3 & 4 were required to assist the Alleged Contemnors No. 1 & 2 in the accomplishment of the task of preparing and implementing a resettlement and rehabilitation plan for the affectees who have been or are expected to be dispossessed or dislocated due to the anti-encroachment drive, within the given time frame i.e. by 09.05.2020.

vi. The Alleged Contemnors No. 1 to 4 were required to submit Progress Reports with regards to the abovementioned directions on and after the next date of hearing after the passage of the Order dated: 09.05.2019, i.e. 06.08.2019.

4. That it is submitted that despite the lapse of almost one year, no progress has been made, by any of the Alleged Contemnors, in pursuance of the Order dated: 09.05.2019, passed by this Honourable Court. The Alleged Contemnors have not only failed to follow the clear directions passed by this Honourable Court within the time frame provided, they have not even begun any work in pursuance of following the directions of this Honourable Court, as passed in Order dated: 09.05.2019. As a result, the Alleged Contemnors have even failed to submit any substantial Progress Report before this Honourable Court regarding the preparation and implementation of a resettlement and rehabilitation plan. It is further submitted that as a result of this clear and blatant violation of the directions passed by this Honourable Court, the affectees are deprived of their rights to life, to basic human dignity, to safety, to shelter and housing.

5. That it is most humbly and most respectfully submitted that the Alleged Contemnor No. 2 has even conducted meetings with regard to urban planning issues of Karachi but have blatantly avoided the implementation of the Order dated: 09.05.2019, passed by this Honourable Court, in Constitution Petition No. 9 of 2010, as is obvious in the report published as "Transforming Karachi" which was published in accordance with Paragraph 33-34 of the Order dated: 06.02.2019 & 07.02.2019,

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passed in Constitution Petition No. 9 of 2010, by this Honourable Court. It is submitted that in this instance, and otherwise, the Alleged Contemnor No. 2 has not taken a single substantive action to allot the land promised, for the resettlement and rehabilitation of affectees, by the Government of Sindh, of which he is the Chief Secretary. He has blatantly flouted the directions in the abovementioned Order dated: 09.05.2019.

6. That according to a six-year-old survey, conducted in 2014, approximately 48000 persons are likely to be affected by the Karachi Circular Railway. It is important to note that in the passage of the last six years, the population of Karachi has increased exponentially. It is submitted that, till date, 565 concrete structures have been demolished. This means that according to the most conservative estimate, a thousand households have been rendered homeless. According to the census, there are an average of 6.5 persons per household, therefore, this means 6500 persons have been rendered homeless. This is discounting the fact that there are more persons per household and that population density is usually higher in lower-income urban localities. Moreover, according to the Petitioners' research and knowledge, 3653 families, i.e. 23,745 persons, are in imminent danger of evictions and when their homes are demolished, they will also be homeless because the Alleged Contemnors have failed to follow this Honourable Court's Order dated: 09.05.2019, passed in Constitution Petition No. 9 of 2010.

7. That it is submitted that because of the Alleged Contemnors' failure to follow the directions of this Honourable Court, at least 6500, particularly including women, young girls, children and the elderly, are presently living on the rubble of their demolished homes. These people are left without a roof, and without access to basic sanitation, toilets and bathrooms. The Petitioners are extremely alarmed that the cost of the Alleged Contemnors failure to follow the directions of this Honourable Court vide Order dated: 09.05.2019, passed in Constitution Petition No. 9 of 2010 is affecting thousands of human lives. It is most respectfully and most humbly submitted that the Petitioners are informed that no concrete and detailed plan has been prepared

- for resettlement and rehabilitation of affectees of Karachi Circular Railway and not a single affectee has been rehabilitated by the Alleged Contemnors.
8. That it is submitted that the Applicant Intervenor of C.M.A No. 425-K of 2019 in Constitution Petition No. 9 of 2010 have sent Legal Notices, dated: 12.03.2020, to the Alleged Contemnors in order to intimate them of their duty to act in accordance with the Order dated: 09.05.2019, passed in Constitution Petition No. 9 of 2010, by the Honourable Supreme Court of Pakistan, however, there has been no response from the Alleged Contemnors. It is further submitted that the organization headed by Petitioner No. 2 has approached the Alleged Contemnor No. 4, as well as the National Disaster Management Authority, with a proposed plan for temporary toilets and bathrooms, however, the Alleged Contemnor No. 4 has failed to take action. This situation is particularly alarming, and the Alleged Contemnors' blatant disregard for the abovementioned Order of this Honourable Court, particularly in the wake of a global pandemic, i.e. COVID-19, could mean that the number of infected persons could explode if even one person contracts COVID-19. Given the unsanitary conditions in which the affectees are forced to live; this could result in a national healthcatastrophe.
9. That it is most humbly and most respectfully submitted that the Alleged Contemnors have completely disregarded and flouted the directions of this Honourable Court, given vide Order dated: 09.05.2019, passed in Constitution Petition No. 9 of 2010, and this is a clear cut case of contempt against the Alleged Contemnors.

**PRAYER**

In view of the above, it is most respectfully and most humbly prayed that this Honourable Court may be pleased to initiate proceedings of contempt of court against the abovenamed Alleged Contemnors for deliberately and malafidely, disregarding and violating the Order dated: 09.05.2019 of this Honourable Court passed in Constitution Petition No. 9 of 2010.

**DRAWN BY**

FAISAL SIDDIQI  
ADVOCATE SUPREME COURT

**FILED BY**

(SYED MAHMOOD ABBAS)  
ADVOCATE-ON-RECORD