IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Justice Qazi Faez Isa, CJ
Justice Irfan Saadat Khan
Justice Naeem Akhtar Afghan

Civil Petitions No.4889, 4890, 4907, 4945 & 5008/2018

Malik Ahmed Nawaz (in CP 4889/18)

Revenue Employees Cooperative Housing Ltd, (RECHS), Rawalpindi thr. its Convener Umar Jehangir, Deputy Commissioner, Rawalpindi (in CPs 4990 &4907/18)

Ch. Nusrat Hayat Khan (in CP 4945/18)

Riaz ud Din Ahmed & others (in CP 5508/18) ...Petitioners

Verses

Bahria Town (Pvt) Ltd thr. its G.M. Regulatory Affairs, Rawalpindi & others (in all cases) ...Respondents

For the Petitioners: Barrister Umer Aslam Khan ASC
Syed Rifaqat Hussain Shah, AOR
(in CPs 4889 & 5008/18)

Mr. Razaq A. Mirza, ASC
(in CPs 4890 & 4907/18)

Mr. Aftab Alam Yasir, ASC
(in CP 4945/18)

For the Respondents: (Bahria Town) Dr. Ilyas Sheikh, ASC
(in CPs 4889,4907 & 5008/18)

Mr. Hassan Raza Pasha, ASC
(in CPs 4890 & 4945/18)

For the Respondents: (DHA Rawalpindi) *Mr. Rashid MehmoodSindhu, ASC (in all cases)*

For Province of Punjab: Mr. Khaild Ishaq, AG Punjab

Date of Hearing: 20.3.2024

ORDER

In order dated 16 January 2024, certain facts were noted and eight questions were asked from the Registrar Cooperative Societies, Punjab, Defence Housing Authority ('**DHA**'), Bahria Town (Pvt) Ltd. ('**Bahria Town**') and Government of Punjab and they were directed to file their respective replies. In response the Registrar Cooperative Societies and Government of Punjab have filed CMA No.2181 of 2024, DHA has filed CMA No.2200 of 2024 and Bahria Town has filed CMAs No.2182 and 2183 of 2024.

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2. The learned counsel representing DHA and Bahria Town, state that Bahria Town had transferred the land that it had acquired from the defunct Revenue Employees Cooperative Housing Society ('**Society**') to DHA by entering into a *Trade Off Agreement* dated 29 August 2007, which was executed with (1) Petro Trade (Pvt.) Ltd. a subsidiary of Habib Rafique (Pvt.) Ltd., through its Chief Executive Mr. Zahid Rafique, (2) Bahira Town, through its Chief Executive Malik Riaz Hussain, and (3) Defence Housing Authority, , through its Administrator Mr. Iftikhar Ali Khan. We are further informed that earlier an *Agreement* dated 17 February 2005 was entered into between Bahira Town and Col. (R) Abdullah Siddique, Administrator of the Society and the land of the Society was transferred to Bahria Town. The *Agreement* is on the letterhead of Bahria Town and provides that land shall be transferred to the members of the Society within a period of five years. However, well before the expiry of the said five years period Bahria Town is stated to have handed over the said land to DHA through the *Trade Off Agreement*.

3. Learned Advocate-General, Punjab states that the term of the Administrator of the Society had expired when he had entered into *Agreement* dated 17 February 2005, and that he was not authorized to enter into the said *Agreement*. He further states that the then Chief Minister of Punjab, namely, Mr. Pervaiz Elahi, had no power to exempt the application of the Cooperative Societies Act, 1925 and merger of the Society with Bahria Town and that the Minister of Cooperatives in writing had opposed it but his objections were not even attended to, and Mr. Pervaiz Elahi granted his approval.

4. We found it difficult to understand the nature of the said two Agreements and whether the same were legally executed also needs to be addressed by the parties thereto. It is also not clear what the parties thereto got pursuant to the said two Agreements and the monies, if any

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paid/received. Therefore, the said parties are directed to file concise statements attending to these queries with site plans, marking out the land with attached Google map where the land should also be marked. During the hearing the question also arose, whether public disclosure was made of the two Agreements.

5. We need to understand the Government of Pakistan's and the Provinces' policies, if any, with regard to the following:

(1) The advantages to the province/country accruing from conversion of agricultural land for residential/commercial use.

(2) Whether those investing in building societies and not utilizing that land assist in generating economic activity, employment and taxable income?

(3) Whether land conversions decrease the availability of agricultural land, and if so, whether it adversely impacts food security, and increases dependency on food imports?

(4) Who is legally empowered to grant approvals for converting land use and for such projects?

(5) Whether there is any provision for providing land to those with lower incomes, and the poor by providing smaller plots of a few or even a single *marla?*

(6) Does not representative government require that decisions pertaining to such public matters are brought before the peoples elected representatives?

(7) Does such massive land use conversions contribute to environmental degradation, pollution and climate change?

(8) The applicability of the Transfer of Property Act, 1882, the Registration Act and Stamp Duty Act?

Therefore, notices are issued to the Government of Pakistan and the Islamabad Capital Territory through the Attorney-General for Pakistan and to the Provinces through their respective Advocate-Generals, and they are directed to submit their replies to the aforesaid queries and may also provide any other relevant information.

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6. There are apparently those who had paid for the land but did not get anything, then there are those who had paid for the land and did get land or receive money and then there are those who had paid for the land but were not satisfied with what was offered to them and did not receive either land or money. Respective details in this regard should be filed by Bahria Town. Learned counsel representing Bahria Town state that if an opportunity is granted, an effort will be made to resolve the grievances of the petitioners and others.

7. To be listed for hearing in the week of 29 April 2024 to 3 May 2024.

Chief Justice

Judge

Judge

ISLAMABAD
20.3.2024
Naseer

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