ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

(JUDICIAL DEPARTMENT)

WP no. 4479/2023

Syed Ali Haider Jafferi
versus
CDA, and another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
2	11.03.2024	Petitioner in person Mr. Muhammad Khurram Mahmood Qureshi, advocate for the respondent CDA. Barrister Ahsan Hameed Dogar, advocate for the respondent IESCo.

Learned counsel for the CDA has asked to be placed on record the CDA's report confirming that the respondent IESCo has established its warehouse illegally on the land reserved for the park at street no.23 sector G-7/2, Islamabad.

2 Per the said report, following this petition, a written notice was issued by the CDA to IESCo for removing its poles, cable bundles and other materials stored at that plot. With the inaction of IESCo persisting, CDA itself attempted to remove those materials, but on IESCo management's verbal request, deferred the operation, which eventually led to IESCo management itself commencing the removal. The CDA's report confirms that IESCo has initiated the process of lifting their materials from the land; the report attached photographs of IESCo's trucks loading the poles as evidence of the vacation process to have commenced.

3 Learned counsel for IESCo sought to argue with reference to sections 13 and 14 of WAPDA Act that WAPDA has been in occupation of this plot of land but, when asked, he could not produce any document whereby the powers of acquisition vested in WAPDA were lawfully exercised resulting in a title document for the said land in favour of WAPDA. Further, the submission aforesaid is completely uncalled for because, after the restructuring of the power sector in the early 90s, IESCo came into existence as a distribution company incorporated under the Companies Ordinance, 1984, independent of the erstwhile integrated WAPDA and, barring an express assignment or devolution of any rights resting in WAPDA to IESCo, IESCo cannot claim any right or title in any land of WAPDA solely by asserting that its predecessor WAPDA had been in the occupation of that land; all the more so when no document evidencing WAPDA's legal entitlement to such occupation is produced before the Court. Further still, the CDA is the ultimate custodian of the proprietary rights of the land falling in the said sector, and with the CDA's firm stance coming forth that the said land is reserved for park and, per its records, no entitlement of IESCo exists on the said land, IESCo has no legal basis to assert as it did in its comments any entitlement to the said land. Above all, the fact that IESCo has already commenced vacation of the said plot of land is testimony to IESCo's acknowledgement that it does not have legal entitlement for a warehouse on the said land.

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4 Resultantly, this petition is **allowed** and IESCo is directed to ensure that the plot is completely cleared for use as a park and that no debris, materials or other remnants of IESCo's warehouse shall be left at the park by the end of 7 days from today.

5 **Disposed of** accordingly.

(Sardar Ejaz Ishaq Khan)
Judge

Rana.M.Jft

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