

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Sh. Azmat Saeed  
Mr. Justice Faisal Arab  
Mr. Justice Munib Akhtar

**Civil Misc. Application No.8758 of 2018 in Civil Misc. Application No.376-K of 2014, Civil Misc. Application No.9963 of 2018 in Civil Misc. Application No.8758 of 2018, Civil Misc. Application No.10096 of 2018 in Civil Review Petition No.288 of 2018, Civil Misc. Application No.10604 of 2018 in Civil Misc. Application No.8758 of 2018, Civil Misc. Application No.8759 of 2018 in Civil Misc. Application No.3854 of 2014, Civil Misc. Application No.9181 of 2018 in Civil Misc. Application No.3854 of 2014 in Sua Motu Case No.3 of 2009, Criminal Misc. Application No.1655 of 2018 in Criminal Original Petition No.57 of 2015, Criminal Misc. Application No.96 of 2019 in Criminal Misc. Application No.1655 of 2018 in Criminal Original Petition No.57 of 2015 and Sua Motu Case No.34 of 2018**

1. Implementation of CMA No.8758/2018  
Judgment dated  
04.05.2018 in CMA  
No.376-K/2014
2. Matter regarding CMA No.9963/2018  
reinvestment of amount  
received from Bahria Town  
Pvt. Ltd.
3. Regarding deposit of CMA No.10096/2018  
Cheque No.16323069 dated  
29.10.2018 amounting to  
Rs.2,51,21,15,297/- in  
account of this Court  
opened in the matter
4. Matter regarding provision CMA No.10604/2018  
of accounts detail to Bahria  
Town

5. Implementation of CMA No.8759/2018  
judgment dated 04.05.2018  
in CMA 3854/2014
6. Report in CMA 3854/2014 CMA No.9181/2018  
by Chief Commissioner,  
ICT, Islamabad
7. For implementation of the CrI. MA No. 1655/2018  
order dated 4.5.2018  
passed in CrI.O.P.  
No.57/2015 etc.
8. Impleadment application CrI. MA No.96/2019  
on behalf of Federal Shariat  
Court Employees  
Cooperative Housing  
Society (Judicial Town  
Chattar)
9. Suo motu action regarding SMC No.34/2018  
transfer and allotment fee /  
expenses charged by M/s  
Bahria Town (Pvt.) Ltd.

**In Attendance:**

In CMA No.8758/2018: Syed Asghar Haider,  
Prosecutor General, NAB  
Mr. Jehanzeb Bharwana, Additional  
Prosecutor General, NAB  
Mr. Nayyar Rizvi, Addl. P.G. NAB  
Mr. Imran-ul Haq, Spl. Prosecutor,  
NAB  
**(For NAB)**

Mr. Farooq H. Naek, Sr. ASC  
Mr. Zakir Hussain Khaskheli, ASC  
Syed Rifaqat Hussain Shah, AOR  
Mr. Muhammad Irfan, Law Officer  
**(For D.G. MDA)**

Mr. Tariq Mehmood Jehangiri,  
Advocate General, Islamabad  
**(For ICT)**

Mr. Zahid Hussain Bokhari, ASC  
**(For Foreign Investors)**

Mr. Tariq Mehmood Khokhar,  
Additional Attorney General  
**(For Federation)**

Kh. Tariq A. Rahim, Sr. ASC  
Mr. M. Azhar Siddique ASC  
**(For some of the residents of Bahria Town, Karachi)**

Syed Ali Zafar, ASC  
Mr. Zahid Nawaz Cheema, ASC  
Ch. Shahid Riaz, Legal Assistant  
Raja Abdul Ghafoor, AOR  
**(For Bahria Town)**

Mr. Shahzad Fazal Abbasi, Deputy  
Commissioner, Malir, Karachi

Mr. Suleman Talibuddin,  
Advocate General, Sindh  
Mr. Muhammad Azam Jamali, SP  
**(For Province of Sindh)**

Sardar Muhammad Aslam, ASC  
Mr. Muhammad Nadir, Proprietor,  
COSMOS  
Mr. Atif Polani, Proprietor Tri-Star

In CMA No.8759/2018: Barrister Qasim Ali Chohan,  
Additional Advocate General, Punjab  
**(For Province of Punjab)**

Mr. Aitzaz Ahsan, Sr. ASC  
Mr. Gohar Ali Khan, ASC  
Raja Abdul Ghafoor, AOR  
**(For Bahria Town)**

In Crl. MA No.1655/2018: Mr. Tariq Mahmood Khokhar,  
Addl. AGP  
**(For Federation)**

Mr. Aitzaz Ahsan, Sr. ASC  
Mr. Gohar Ali Khan, ASC  
Raja Abdul Ghafoor, AOR  
**(For Bahria Town)**

Barrister Qasim Ali Chohan,  
Additional Advocate General, Punjab  
**(For Province of Punjab)**

In SMC No.34/2018: Mr. Tariq Mehmood Jehangiri,  
Advocate General, Islamabad  
**(For ICT)**

Mr. M. Azhar Siddique, ASC  
(For Bahria Town)

Date of hearing: 21.03.2019

**ORDER**

The *lis* at hand pertains to the implementation of the judgment dated 04.05.2018 of this Court passed in CMA No.376-K of 2014 in SMC No.16 of 2011 in respect of Bahria Town Limited, Karachi (BTLK). While deciding the matter of BTLK, it was noticed by this Court that the third party rights had been created, which may require protection and in the above context, the possibility of transfer of rights of the land in question in favour of BTLK be considered. Such third party rights are obviously of the allottees of various plots and the buildup units of BTLK and, as per the case of BTLK, the number of such allottees exceeds 1,40,000 (CMAs Nos.109 & 1638 of 2019). There is no denying the fact that some development work has been undertaken by BTLK upon the land in question and it is claimed, though not verified, that several

hundred billions of rupees have been expended, in this behalf.

2. At the very outset, it was canvassed on behalf of BTLK that they are prepared to pay the price of the land in question and complete the project thereby guaranteeing the protection and preservation of third party rights and also ensuring that reasonable value of the land goes into the public exchequer. The implementation proceedings before this Court were punctuated by various offers made by BTLK. In this behalf, there were successive miscellaneous applications and offers made in open Court duly recorded in the various orders of this Court. The last offer was made through CMA No.2232 of 2019 and in broad terms, such offer is reflected in our previous Order dated 13.03.2019. The aforesaid process had the blessings and consent with the Government of Sindh and Malir Development Authority, as recorded in our order dated 13.03.2019.

3. Today, in Court, BTLK has revised and enhanced its offer. The final offer, as it stands

now, with its terms and conditions is as follows:-

**(a) The land in question:**

(1) BTLK has offered to acquire the rights of the land measuring 16,896 acres (sixteen thousand eight hundred and ninety six acres) in 5 Dehs i.e. Deh Bolhari, Deh Langhaji, Deh Konkar, Deh Kharkharo and Deh Kathore the details are identified in the site plan, which is prepared by SUPARCO and agreed upon by SUPARCO, Survey of Pakistan and the Representative of BTLK, which also bears the signatures of the Representative of BTLK pursuant to our order dated 09.01.2019. The said site plan is already available and is placed on the record marked as "C". BTLK has no right, title, interest or possession of any other land owned by the Government of Sindh other than 16,896 acres.

(2) During the course of proceedings, it came to light that BTLK has allotted plots to the persons in the land though not part of 16896 acres of land distinctly identified in site plan "C". This fact stands reflected in our order dated 06.3.2019. BTLK has undertaken to adjust such allottees in 16,896 acres as marked in site plan "C" or to compensate them in monetary terms.

Such undertaking by BTLK is reflected in our aforesaid order dated 06.03.2019.

**(b) Price of Land**

BTLK has agreed to pay a total sum of Rs.460,000,000,000/- (Rupees Four Hundred and Sixty billion), to be paid in the following manner:

**(1) Period:**

All payments shall be made within a period of seven years. (commencing from 01.09.2019 to 31.08.2026)

**(2) Mode of Payment:**

**(i) Down Payment:**

Rs.25,000,000,000 (Rupees Twenty Five billion) (including the amount already deposited with the account established by this Court and the payments admittedly made to the Government of Sindh) will be paid. Shortfall in such payment shall be made up on or before 27<sup>th</sup> August of 2019.

**(ii) Subsequent Payments:**

Payment shall be made firstly, in forty-eight (48) monthly installments of Rs.2,500,000,000 (Rupees Two billion and Five Hundred

million) starting from 1<sup>st</sup> September, 2019.

Thereafter, the balance payments shall be made in thirty-six equal monthly installments along with 4% markup charged annually w.e.f. 1<sup>st</sup> September, 2023.

In the event of default in repayments, BTLK shall be liable to pay markup on any defaulted sum at the rate of 10% per annum. This shall be in addition to other penal consequences provided in this order.

- (iii)** Each monthly installment shall be paid/settled in full by the 7<sup>th</sup> day of each month in advance.
- (iv)** 30% of outstanding amount of BTLK towards its allottees as well as future sale proceeds, collected or deposited by BTLK shall be transferred to the designated account already opened by this Court referred to above. Such an amount shall be utilized towards the Down Payment and installments mentioned above, as the case may be.



BTLK undertakes to provide within fifteen days the list of all its Bank Accounts in which such payments are to be received. The Bank Accounts shall not be varied without the permission of this Court.

- (v) All payments shall be deposited in the designated account already opened as per directions of this Court.

**(c) Default:**

Failure to deposit the Down Payment or two consecutive installments or three installments in toto, shall constitute a default resulting, *inter alia*, the whole balance amount shall become due and payable.

**(d) Security:**

- (1) The security for payments will be properties listed in para 9 of CMA No.2232 of 2019, which are as follows:-

- (i) Undisputed land owned by BTLK which it gave in nullified exchange.
- (ii) Non-saleable land or built up property in BTLK as under:
  - Theme Park
  - Danzoo
  - Rafi Cricket Stadium
  - Fatimah Jinnah University

- Schools
- Head Office
- Hospital
- Staff Colony
- Cine Gold Cinema
- Fire Station
- Quarantine Centre
- Eiffel Tower
- Grid Station
- Bahria Dancing Fountain
- Butterfly mesh House
- Parks & Playgrounds
- Restaurants
- Petrol Pumps
- Service Stations
- Slaughter House
- SNG Plant
- STP
- Water Reservoirs
- Green Valley
- Hotel
- Substation
- Corporate Office
- Facilitation Centre
- Weighing Station.”

The detailed description and identification of the above listed properties shall be provided to this Court within two weeks from today. The said properties cannot be encumbered, burdened, mortgaged, varied, transferred or sold by BTLK without the permission of the Court.

(2) The past/present directors / shareholders / promoters of BTLK i.e. (1) Malik Riaz Hussain s/o Malik Aashiq Hussain, (2) Ahmed Ali Riaz s/o Malik Riaz Hussain, (3) Mrs. Bina Riaz w/o Malik Riaz Hussain and (4) Zain Malik s/o Arshad Malik) shall furnish personal guarantees to the satisfaction of the Registrar of this Court whereby they shall be jointly and severally liable for any default which may be committed by BTLK in terms of this order, thereby keeping the financial interests of the Province of Sindh/Malir Development Authority safe, harmless and indemnified until the whole of the amounts payable by BTLK in terms of this order are deposited in this Court.

**(e) Other Terms and Conditions:**

- (1) BTLK is permitted to allot and otherwise deal with 16896 acres the property in question as a builder/developer only.
- (2) On receipt of entire payment as mentioned above, leasehold rights in the property in question of 16896 acres may be transferred on lease by the Government of Sindh and/or the Malir Development Authority to BTLK for a period of 99 years or such other tenure in accordance with the applicable laws and BTLK shall in accordance with the terms and conditions already agreed with the allottees transfer or cause to be transferred such rights in favour of the said allottees.

- (3) BTLK shall complete the project and all constructions shall be compliant with all the applicable laws, rules and regulations including Sindh Building Control Authority Laws.
- (4) As this order relates to only 16,896 acres of land in (*deh*) falling within the controlled area of MDA, The Government of Sindh and the MDA shall ensure that any land beyond this stands retrieved and no excess land shall be allowed to be occupied by BTLK. Any violation of this direction shall entail criminal action both against the functionaries of Government of Sindh, Malir Development Authority and the management of BTLK or whosoever is found responsible.

4. As stated above, we are enjoined by the judgment dated 04.05.2018 under implementation to, as far as possible, protect the third party rights in the land in question. Such third parties obviously are the allottees and as per the case of BTLK the number of such allottees is over 140000. It is also an obvious fact that though development work has been conducted on the site at a cost of several billion rupees (as per the case of BTLK), however, the project is far from complete. The most efficient way of securing the rights of third parties i.e. the allottees is through the completion of the project and handing over the developed plots and/or completed constructed units, as the case may be, to such allottees.

5. That in the judgment under implementation one of us (Faisal Arab, J.) had undertaken an exercise tentatively determined the approximate financial worth in the land in question. Reference, in this behalf, may be made to paragraphs 8 and 9 of the concurring

note. As per the aforesaid exercise, the tentative financial advantage that Malir Development Authority would have acquired, had it undertaken a scheme itself was Rs.150,000,000,000/- for 7068 acres. The land in question is 16896 acres and applying the same formula, the approximate monetary benefit of the land would be about Rs.360,000,000,000/- The offer made by BTLK is about Rs.100 billion more than the aforesaid amount, which, perhaps more than compensates for deferred payments in installments.

6. We accept the offer of Rs.460,000,000,000/- (Rupees Four Hundred and Sixty billion) made by BTLK for 16,896 acres of land on terms as set out hereinabove (this amount translates into Rs.27.22 million per acre).

7. As per the judgment under implementation dated 04.5.2018, we had directed the National Accountability Bureau to commence the investigation against BTLK with

regard to the land in question. Such direction was reiterated vide our order dated 14<sup>th</sup> November, 2018. We were subsequently informed that the investigation perhaps has been completed and the reference has also been prepared and is ready to be filed in the Accountability Court. In this view of the matter, the said Reference shall not be filed for the time being. However, if there is any default in making payments in terms of the aforesaid order or otherwise any other violation in any of the terms and conditions mentioned herein above, NAB shall immediately file said Reference, which shall be proceeded with in accordance with law.

8. To come up for further proceedings after a fortnight.

**Judge**

**Judge**

**Judge**

Islamabad, the  
21<sup>st</sup> March, 2019  
*Safdar/ \**