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Sind Ordinance NO. VI of 1986.

THE SIND KATCHI ABADIS ORDINANCE, 1986.

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Sind Ordinance NO. VI of 1986.

THE SIND KATCHI ABADIS ORDINANCE, 1986.

[11th December,1986.]

An ordinance to make provision for the development and improvement of the areas of the Katchi Abadis and regularization of such Katchi Abadis and to establish an Authority for the purpose.

Preamble.

WHEREAS it is expedient to make provision for the development and improvement of the areas of the Katchi Abadis and regularization of such Katchi Abadis and to establish an Authority for the purpose;

AND WHEREAS the Provincial Assembly is not in session and the Governor of Sind is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, the Governor of Sind is pleased to make and promulgate the following Ordinance:-

CHAPTER—I
PRELIMINARY

Short title and commencement.

1. (1) This Ordinance may be called the Sind Katchi Abadis Ordinance, 1986.

(2) It shall extend to the whole of the Province of Sind.

(3) Government may by notification exclude any area from the operation of all or any of the provisions of this Ordinance.

(4) It shall come into force at one and shall be deemed to have taken effect on and from the 7th day of April, 1986.

Overriding effect.

2. This Ordinance shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

Definitions.

3. (1) In this Ordinance, unless there is anything repugnant in the subject or context—

(i) "Authority" means the Sind Katchi Abadis Authority established under Section 4;

(i) "budget" means the official statement of annual

income and expenditure of the Authority;

(ii) "Chairman" means the Chairman of the Governing Body;

(iii) "Committee" means a Coordination Committee set up under this Ordinance;

(iv) "Council" means a Metropolitan Corporation, Municipal Corporation, Municipal Committee, or a Town Committee constituted under Sind Local Government Ordinance, 1979;

(v) "Director General" means the Director General of the Authority;

(vi) "Fund" means the Fund of the Authority;

(vii) "Governing Body" means the Governing Body constituted under section 6;

(viii) "Government" means the Government of Sind;

(ix) "Katchi Abadi" means a Katchi Abadi declared as such under this Ordinance and includes the Katchi Abadis so declared under any law before the coming into force of this Ordinance;

(x) "Member" means a member of the Authority and includes the Chairman;

(xi) "prescribed" means prescribed by rule or regulations;

(xii) "regulations" means regulations made under this Ordinance;

(xiii) "rules" means rules made under this Ordinance;

(xiv) "scheme" means a scheme prepared, undertaken or executed under this Ordinance;

(xv) "Tribunal" means a Tribunal established under this Ordinance.

(2) Words and expressions not defined in this Ordinance shall, unless the context otherwise requires, have the meanings assigned to them in the Sind Local Government Ordinance, 1979.

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THE SIND KATCHI ABADIS ORDINANCE, 1986.

CHAPTER—II
ESTABLISHMENT OF THE AUTHORITY AND CONSTITUTION OF THE GOVERNING BODY.

4. (1) There shall be established an Authority to be known as the Sind Katchi Abadis Authority, for carrying out the purposes of this Ordinance. **Establishment of the Authority.**

(2) The Authority shall be a body corporate, having perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, both movable and immovable and shall by the said name, sue and be sued.

(3) The headquarters of the Authority shall be at Karachi.

5. (1) The general direction and administration of the Authority and its affairs shall vest in a Governing Body which may exercise all powers and do all acts and things which may be exercised or done by the Authority. **Administration of the Authority.**

(2) The Governing Body in discharging its functions shall act on sound principles of planning, development and re-development of an housing and rehousing in the Katchi Abadis and shall be guided on question of policy by such directions as Government may, from time to time, give.

(3) If a question arises as to whether any matter is of policy or not, the decision of Government shall be final.

6. (1) The Governing Body shall consist of— **Constitutions of the Governing Body.**

(i)	Minister for Katchi Abadis.	Chairman.
(ii)	Secretary, Local Government Department	Official Member.
(iii)	Member (Land Utilization)Board of Revenue.	“”
(iv)	Commissioner, Karachi Division.	“”
(v)	Commissioner, Hyderabad	“”

	Division.	
(vi)	Commissioner, Sukkur Division.	“”
(vii)	Director General.	“”
(viii)	Director, Finance and Administration of the Authority.	“”
(ix)	Mayor, Metropolitan Corporation, Karachi.	Non-Official Member.
(x)	Mayor,Municipal Corporation, Hyderabad.	“”
(xi)	Mayor,Municipal Corporation, Sukkur.	“”
Xii)	Four Members of the Provincial Assembly to be appointed by Government.	“”

(2) The Director, Finance and Administration shall be the Secretary of the Governing Body.

(3) Government may at any time change the constitution of the Governing Body by appointing any person as official or non-official member in place of an existing member or otherwise.

(4) The Governing Body may coopt any person as a member for a particular purpose but no such person shall have right of vote.

(5) The Chairman may nominate any member to act as Chairman in his absence.

(6) An official member appointed by virtue of his office shall cease to be member on vacating such office.

(7) A non-official member appointed by Government shall hold office at the pleasure of Government but may at any time resign from membership by addressing a letter to

Government.

7. No person shall be or continue to be a member who— **Disqualification of the members.**

(i) has been removed or dismissed from Government service or from the service of a statutory body;

(ii) is or has been mentally or physically incapacitated;

(iii) is or has been convicted for an offence involving moral turpitude;

(iv) has acted or is acting in contravention or the provisions of this Ordinance;

(v) has financial interest directly or indirectly in any project or scheme of the Authority;

(vi) has any interest directly or indirectly in conflict with the interest of the Authority.

8. The Authority may allow such remuneration, allowance or other privilege to the non-official members as it may determine with the approval of Government. **Remuneration and allowance to members.**

9. (1) Government shall appoint a person as Director General possessing such qualifications and on such terms and conditions as it may determine. **Appointment and removal of Director General.**

(2) The Director General shall be a whole time officer of the Authority.

(3) Government may remove the Director General if he-

(a) refuses or fails to discharge or becomes incapable of discharging his functions and responsibilities under this Ordinance;

(b) abuses his position as Director General;

(c) has directly or indirectly acquired or

attempted to acquire any share or interest in any property, scheme or other concern of the Authority.

(4) The Director General shall not be removed from his office without affording him an opportunity of being heard.

10. (1) The Authority may for efficient performance of its functions appoint such advisors, officers including Director Finance and Administration and Deputy Directors General and other staff possessing such professional, technical, ministerial or secretarial qualifications and experience in such manner and on such terms and conditions as may be prescribed by rules. **Appointment of Officers, Advisors and employees.**

(2) The officers, staff and employees of the authority shall be liable to such disciplinary action and in such manner as may be prescribed by rules.

CHAPTER—III
PART—I
POWERS AND FUNCTIONS OF THE AUTHORITY AND ITS FUNCTIONARIES.

11. (1) Subject to the provision of this Ordinance the Authority shall exercise such powers and perform such functions as may be necessary for carrying out the purposes of this ordinance. **Powers and Functions of the Authority.**

(2) Without prejudice to the generality of the foregoing powers, the Authority may--

(i) implement policies formulated by Government for the development or improvement of the areas of the Katchi Abadis and regularization of such Katchi Abadis;

(ii) lay-down guidelines for the implementation of such policies by the concerned authorities;

(iii) identify the Karachi Abadis or areas thereof which may be developed, improved or regularized under this Ordinance and also identify the Katchi Abadis or areas which cannot be regularized as Katchi Abadis;

(iv) arrange or carry out detailed physical surveys, census of occupants of the Katchi Abadis and prepare or cause to be prepared plans and amelioration plans, and designs of infrastructural works in connection with the regularization and development of the Katchi Abadis;

(v) formulate development and financial programmes in respect of the Katchi Abadis and determine implementation strategy of such programmes;

(vi) oversee the operation of the fund;

(vii) evict or cause to be evicted unauthorized person or remove or cause to be removed encroachments from a Katchi Abadis or any area which is not regularizable as Katchi Abadi in accordance with the law for the time being in force;

(viii) acquire, hold, control and administer, movable or immovable property or dispose of such property;

(ix) prepare or cause to be prepared scheme or schemes and execute or cause to be executed such scheme or schemes;

(x) undertake, where necessary, low cost housing and re-development schemes for resettlement of shiftees from the Katchi Abadis and the areas which are not regularizable as Katchi Abadis;

(xi) enter into and perform contracts;

(xii) incur expenditure for carrying out the purposes of this Ordinance;

(xiii) arrange civic amenities and civic services in the Katchi Abadis through the Councils or other concerned agencies;

(xiv) take such steps as may be necessary or conducive to the attainment of the objects of the Authority.

12. (1) All business of the Authority shall, to the extend and in the manner prescribed by regulations, be dispose of at the meeting of the Governing Body. **Disposal of the business and Meetings of the Authority.**

(2) The meeting of the Governing Body shall be held in such manner and at such time and place as may be prescribed by regulations:

Provided that until regulations are made in this behalf, the business shall be disposed and meetings shall be held as and when convened and in the manner as directed by the Chairman.

(3) Any matter required to be decided by the Authority shall be decided in a meeting of the Authority by vote of majority of members present in such meeting.

(4) Each member shall have one vote and in the case of equality of votes, the Chairman shall exercise a casting vote.

(5) One third of the total membership of the Authority shall form a quorum for a meeting.

13. The Chairman shall discharge such duties and perform such functions as are assigned to him by or under this Ordinance. **Powers and Functions of the Chairman.**

Powers and Functions of Director General.

14. (1) The Director General shall be the Chief Executive of the Authority.

(2) Subject to the provisions of this Ordinance and rules and the general control of the Chairman, the Director General shall—

(a) exercise effective control over and be responsible for smooth functioning of the day to day affairs of the Authority;

(b) supervise the financial and executive administration of the Authority and perform functions assigned and exercise powers conferred on or delegated to him by or under this Ordinance;

(c) be responsible for instituting or contesting legal proceedings for and on behalf of the Authority and for matters incidental thereto;

(d) be responsible for and have the authority for overseeing and implementing the orders of the Authority;

(e) have powers to exercise administrative control over the personnel of the Authority.

Constitution of the Coordination Committee.

15. (1) There shall be a Coordination Committee in each Division.

(2) The Committee shall consist of the Commissioner of the Division who shall be its Chairman and such other official and non-official members as may be appointed by Government.

(3) The Committee may coopt any person as its member for any particular purpose.

Functions of the Coordination Committee.

16. (1) The Committee shall—

(i) assist the Authority in the performance of its functions;

(ii) be responsible for effective coordination of activities of the Authority with other

concerned agencies in the Division;

(iii) ensure prevention of encroachments in the Katchi Abadis;

(iv) take such steps as may be necessary or conducive to the attainment of the objectives of the Ordinance;

(v) perform such other functions as may be assigned to it by the Authority.

(2) The Committee shall function in the manner as may be prescribed by regulations; provided that until such regulations are framed the Committee shall function in the manner as desired by the Chairman of the Committee.

17. (1) The Authority may, with the previous approval of Government and subject to such conditions as it may impose, delegate any person, agency or authority any of its powers, duties or functions under this Ordinance, rules or regulations. **Delegation of powers by the Authority, Chairman and Director General.**

(2) The Chairman or Director General may delegate to any officer or employee of the Authority any of his powers, duties or functions under this Ordinance or the rules or regulations, not being the powers delegated to him under sub-section(1).

18. (1) The Authority may, constitute financial technical or advisory committees with such constitution and functions as may be prescribed by regulations. **Financial, Technical, Advisory Committees.**

CHAPTER—IV
DECLARATION OF KATCHI ABADIS AND ACQUISITION OF LAND.

19. (1) Subject to sub-sections(2),(3) and (4) and directions of Government, if any, the Authority may, after such enquiry as deemed fit, by notification in the Official **Declaration of Katchi Abadi.**

Gazette, declare any area or part thereof which is partially or wholly occupied unauthorisedly before the 23rd day of March, 1985 and continues to be occupied to be a Katchi Abadi.

(2) No area which is owned by the Federal Government shall be declared at Katchi Abadi without obtaining consent of the Federal Government.

(3) No area owned by a private person or a cooperative society shall be declared as Katchi Abadi except with the consent of such person or society and the Katchi Abadi so declared shall be subject to such terms and conditions as may be agreed to between such person or, as the case may be, society and the Authority.

(4) Except as otherwise directed by Government, no area which is reserved for the purposes of road, streets, water supply arrangements, sewerage or other conservancy arrangements, hospitals, schools, colleges, libraries, playgrounds, gardens, mosques, graveyards, railways, high tension lines, or such other purposes or is not safe from flood hazard, shall be declared to be a Katchi Abadi.

(5) Any area declared to be a Katchi Abadi shall, subject to the agreement referred to in sub-section (3), vest in the Authority.

(6) Where the Authority is of the opinion that the area referred to in sub-section(3) cannot be acquired by consent or agreement, the area may be acquired and compensation therefore be paid in accordance with the provisions contained in Chapter IV of the Hyderabad Development Authority Act, 1976 which shall be deemed to have been modified for the purposes of this Ordinance as follows:-

(a) References to the Authority, its Chairman and Member shall respectively be construed as the references to the Authority constituted under this Ordinance, its Chairman and Member.

(b) The compensation for acquisition of the area shall be determined and award in that behalf shall be made by a Tribunal.

(a) The Tribunal shall have all the powers of a Collector exercisable by him while determining the compensation or making award.

(b) Reference to "Collector in section 44, 45 and 46 shall respectively be construed as reference to the Tribunal.

(7) Government may appoint any officer in BS-17 or 18 as a Tribunal.

(8) Government may, by notification in the Official Gazette, establish a Tribunal and specify the area in which such Tribunal shall exercise its jurisdiction.

CHAPTER—V
DEVELOPMENT, IMPROVEMENT AND REGULARIZATION OF KATCHI ABADIS AND SCHEMES THEREFORE.

20. (1) Subject to sub-section (2), the Authority shall develop, improve or regularize the Katchi Abadis in accordance with the provisions of this Ordinance. **Development and improvement of Katchi Abadis.**

(2) The Katchi Abadis declared as such before the coming into force of this Ordinance shall continue to vest in the Council in which such Katchi Abadis are situated for the purpose of improvement, development or regularization.

(3) The Authority may at any time take over the

Katchi Abadis referred to in sub-section(2), whereupon all rights and interests enjoyed, possessed or vested in the Council and such liabilities legally subsisting against that Council as may be determined by Government shall pass to the Authority.

21. (1) The Authority shall prepare or cause to be prepared scheme or schemes for development, improvement or regularization of the Katchi Abadis and the scheme or schemes so prepared shall be submitted to Government for approval. **Schemes.**

(2) The scheme may relate to—

(a) community planning, housing, re-housing including low cost housing and amelioration;
(b) rehabilitation of the authorised or un-authorised occupants of a Katchi Abadi in the same Katchi Abadi or where it is not possible in some other area or locality;
(c) community facilities including water supply sewage disposal, electricity supply, gas and other public utilities or amenities;
(d) roads and streets;
(e) terms and conditions of lease including period and procedure of lease and transfer of lease rights;
(f) lease money and development charges;
(g) any subject or matter incidental or ancillary to the purposes of this Ordinance.

(3) Government may, by notification in the Official Gazette, alter or amend the list of subjects given in sub-section (2), and any such addition or modification shall take effect as if it had been enacted in this Ordinance.

(4) All schemes shall be prepared in such manner and form as Government may specify, and shall contain among other things the following information, namely:-

(a) description of the scheme and the manner of its execution;
(b) estimate of costs and benefits;
(c) allocation of costs to the various proposes to be served by the scheme;
(d) date of commencement;
(e) date of completion;

(5) At any time after sanctioning any scheme but before its completion, Government may on its own or on the recommendation of the Authority alter it.

(6) The Authority shall execute or cause to be executed the approved scheme or schemes and take such measures and exercise such powers including the power of removal of encroachments in accordance with the law for the time being in force as may be necessary for the purpose.

CHAPTER---VI
FINANCE, AUDIT AND ACCOUNTS

Fund.

22. (1) There shall be a separate fund of the Authority known as "Sind Katchi Abadis Authority Fund".

(2) The Fund shall consists of-

(a) grants and subsidy received from the Federal Government, Provincial Government or any local authority;

(b) loans raised or obtained by the Authority;

(c) contributions or donations, aids or gifts received by the Authority;

(d) fees, premium, lease money, development charges, commissions, rates, rent recovered under this Ordinance and other charges for services rendered by the Authority.

(e) all other sums as are receivable by the

Authority.

23. The Authority may, with the previous sanction of and on such terms and conditions as ay be approved by Government, obtain— **Loans, grants, aid and gifts.**

(i) loans from banks or other sources for carrying out the purposes of this Ordinance;

(ii) grants, aids or gifts from donor agencies of Pakistan or foreign origin.

24. (1) The amount credited in the fund shall be deposited in a Scheduled bank approved by the Authority. **Investment and utilization of the fund.**

(2) The Authority may invest its funds in any security of the Federal Government or Provincial Government or any other security approved by Government.

(3) The Authority shall utilize the fund for carrying out the purposes of this Ordinance including payment of--

(a) charges in connection with the regularization and development of Katchi Abadis and execution of a scheme;
(b) compensation for any property acquired under this Ordinance;
(c) loans and interest thereon;
(d) salaries, and other remuneration to the members, officers including Director General, experts, consultants, agencies employed for any work under this Ordinance and other employees of the Authority.

25. (1) The Authority shall prepare a statement of estimated receipts and expenditure for every financial year and submit such statement to Government atleast two months before the commencement of such financial year. **Budget.**

(2) Government may sanction the budget submitted under sub-section (1) with or without modification.

(3) If the budget duly sanctioned by Government is not received before the commencement of the financial

year, it shall be deemed to have been sanctioned.

Accounts and Audit.

26. (1) The Authority shall maintain or cause to be maintained complete and accurate accounts of the fund in such manner or form as may be prescribed by rules.

(2) The accounts of the Authority shall be audited at least once in every financial year by such auditors, as may be approved, by Government.

(3) A statement of the finally audited accounts under sub-section (2) alongwith the reports of the auditors shall be furnished to Government within four months after the end of every financial year.

Betterment Fee.

27. (1) Where the Authority is of the opinion that in consequence of the execution of any scheme the value of any, property involved in such scheme has increased or will increase, it may levy upon such property a betterment fee and collect the same from the owner thereof or any person in possession thereof or having interest therein.

(2) The betterment fee shall be levied at such rate as may be determined by the Authority with the approval of Government; provided that such fee shall not be more than half of the amount by which the value of the property on the completion of the execution of the scheme exceeds the value of the property prior to such execution.

(3) When it appears to the Authority that any scheme is sufficiently advanced to enable the determination of the betterment fee, the Authority may, by an order made in this behalf, declare, for the purpose of levying the betterment fee, the execution of the scheme to be deemed to have been completed and thereupon give notice in writing to the owner of the property or any person in possession thereof or having interest therein

that the Authority proposes to determine the betterment fee in respect of such property.

(4) The Authority shall at the expiry of fifteen days after the service of the notice under sub-section (3) or if any representation is received by the Authority against the determination of betterment fee, after rejection of such representation proceed to levy and collect betterment fee in such manner and in accordance with such procedure as may be prescribed by rules.

28. All sums due to the Authority from any person or body of persons or agency shall be recoverable as arrears of and revenue. **Recovery of Dues.**

CHAPTER—VII
OFFENCE AND THEIR COGNIZANCE.

29. (1) Whoever obstructs or causes to obstruct any person in the discharge of his duties or execution of any scheme or work under this Ordinance or contravenes, attempts to contravene or abets the contravention of the order or direction given under this Ordinance, rules or regulations in connection with the execution of such scheme or work shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to twenty thousand rupees or with both. **Penalty.**

(2) Where the person referred to in sub-section(1) is a company or firm, the Director concerned, officer or agent thereof, who fails to prove that the offence was committed without his knowledge or that he exercised due diligence to prevent commission of such offence shall be deemed to be guilty of such offence.

30. (1) No court shall take cognizance of any offence under this Ordinance except on a complaint in writing made by the Director General or by a person duly authorized by him in this behalf. **Cognizance of offence.**

(2) No court, inferior to that of a first class Magistrate shall be competent to take cognizance of an offence

under this Ordinance, rules or regulations.

CHAPTER—VIII
MISCELLANEOUS PROVISIONS

31. **Power of Government to give directions.**

(1) Government may require the Authority to furnish to it any document, returns, statement, statistics or any other information regarding any matter, under the control of the Authority and the Authority shall comply with such requisition.

(2) Government may, from time to time, give such directions as it considers necessary for the guidance of and compliance by the Authority.

32. **Report on the conduct of the affairs of the Authority.**

The Authority shall within three months of the expiry of a financial year furnish a report to Government on the conduct of its affairs for that financial year.

33. **Transfer of Katchi Abadi.**

Notwithstanding anything contained in this Ordinance, the Authority may within the approval of Government, transfer the management and control of a Katchi Abadi to the Council in which such Katchi Abadi is situated and the Council shall deal with such Katchi Abadi in accordance with the provisions of this Ordinance until its management and control is taken back by the Authority.

34. **Validation of acts and proceedings.**

No act or proceeding of the Authority shall be invalid merely by reason of any vacancy in the Governing Body or defect in its constitution.

35. **Exercise of powers of other Statutory Bodies.**

Notwithstanding anything contained in any law for the time being in force, the Building Control Authority, Karachi Development Authority, Hyderabad Development Authority or other councils shall on and from the date as Government may by notification specify cease to perform in a Katchi Abadi all or any of its functions as mentioned in that notification and such functions shall, to the extent and subject to such

conditions and restrictions as may be specified in the said notification be performed by the Authority.

36. (1) Any person aggrieved by an order passed under this Ordinance, rules or regulations excluding the order or award made under sub-section (6) of section 19, may appeal to such authority in such manner and within such period as may be prescribed by rules. **Appeals.**

(2) The appeal shall be disposed of in the manner as may be prescribed by rules and the order passed in appeal shall be final.

37. All persons including members of the Governing Body and any other Committee constituted under this Ordinance, advisors, experts, consultants and employees of the Authority shall while acting or purporting to act under this Ordinance, rules or regulations, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code. **Functionaries of the Authority deemed to be public servants.**

38. No Court shall have jurisdiction to entertain any proceeding, grant any injunction or make any order in relation to anything done or purported to have been done or intended to be done under this Ordinance. **Bar of Jurisdiction.**

39. No suit, prosecution or other legal proceedings shall lie against the Authority or any member, officer employee or functionary of the Authority; or any person acting under the direction of the Authority or any of its functionaries in respect of anything done or intended to be done in good faith under this Ordinance, rules or regulations. **Indemnity**

40. Government may make rules for carrying out the purposes of this Ordinance. **Rules.**

41. Subject to the provisions of this Ordinance and the rules, the Authority may make regulations for carrying out the purposes of this Ordinance. **Regulations.**

42. If any difficulty arises in giving effect to any of the provisions of this Ordinance, Government may make such order as may appear to it to be necessary or expedient for the purpose of removal of the difficulty. **Removal of difficulties.**