

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

**Const. Petition No. S-750 of 2025**  
Abdul Hussain & Ors. v Mst. Batul Bai & Ors.

Date	Order with signature(s) of Judge(s)
Hg: / Priority.	

- 1. For hearing of Misc. No.9904/25
- 2. For hearing of Misc. No.24573/24
- 3. For orders on Misc. No. /25

**24.11.2025.**

Mr. Asif Ali Khawaja, Advocate for the Petitioner.  
Mr. Saifuddin Salehbhoy Haryanawala, Legal Heir of Respondent No.1  
Mr. Arif Hussain, Legal Heir of Respondent No.2  
Mr. Ali Zardari, Assistant Advocate General Sindh.

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*Nisar Ahmed Bhanbhro, J.* Through the instant petition, the petitioner has challenged the execution proceedings whereby his application was dismissed by the Executing Court vide order dated 16.05.2024, and the revision filed by him was also declined vide order dated 13.07.2024.

2. Precise facts of the case are that the suit was instituted by respondent Batul Bai in the year 1973 for Declaration, Mandatory Injunction, Accounts, and Partition regarding the estate of Ghulam Hussain. The suit was decreed on 02.10.2013 through a preliminary decree with directions to the petitioner (in the present proceedings) to disclose the accounts, income, and profits. Civil Appeals No. 247, 248, and 251 of 2013 were dismissed, and the judgments and decrees dated 09.11.2016 and 16.11.2016 were maintained. Civil Revision Application No. 20/2017 and IInd Appeal No. 29/2017 were also preferred, which too were dismissed, however the judgment and decree were modified. The execution application filed by respondent No. 1 was allowed vide order dated 18.05.2018, whereby the partition of agricultural land was also ordered, and such orders were never challenged before any forum. Pursuant to the orders of the Executing Court, Entry No. 166 dated 03.05.2023 was recorded in Deh Form VII-B by the revenue authorities. The petitioner, being aggrieved by the said entry, filed an application before the Executing Court, which was declined, and the revision application met the same fate.

3. Learned counsel for the petitioner submits that the Executing Court has gone beyond the decree and was not competent to effect the partition proceedings of the subject property, which falls outside its jurisdiction. He has placed reliance on the cases of **Hasham Abbas Sayyad v. Usman Abbas Sayyad** (2007 SCMR 355) and **Syed Ali Asim Jaffari v. Qamar Abbas** (2023 CLC 895). He further

submits that the decree was not executable and that the orders passed by the Courts below are not sustainable under the law, hence liable to be set aside.

4. Mr. Saifuddin Salehbhoy, legal heir of Respondent No.1, present in person, contends that for the last more than five decades they never deprives of right of inheritance. He further submits that judgment and decree passed by the court below were maintained and now execution proceeding are hindered by the petitioners without any cause or reason.

5. Heard arguments and perused the material available on record.

6. It is a settled proposition of law that the Executing Court has to follow the decree and cannot go beyond its terms. Under Section 17 of the C.P.C., where immovable properties are situated within the jurisdiction of different Courts, a suit may be instituted in any Court within whose local limits any portion of the property is located. Since the deceased's properties were situated in Karachi, Quetta, and Shikarpur, the suit was competently instituted before the Court at Karachi. This objection was never raised during the rent proceedings. For the sake of convenience, Section 17 C.P.C. is reproduced hereunder:—

*“Section 17 CPC. Suits for immoveable property situate within jurisdiction of different Courts. Where a suit is to obtain relief respecting, or compensation for wrong to, immoveable property situate within the jurisdiction of different Courts, the suit may be instituted in any Court within the local limits of whose jurisdiction any portion of the property is situate.”*

6. As far as the question of partition is concerned, Section 135 of the Sindh Land Revenue Act confers the power of partition of agricultural land upon the Revenue Officer, and Section 172 of the Land Revenue Act bars the jurisdiction of any other Court in the matters falling under the purview of said Act. The present suit pertained to the right of entitlement, and it was held that respondent No. 1 was entitled to her due share in the movable as well as immovable properties. Accordingly, a preliminary decree was passed, and thereafter the matter was referred to the concerned Revenue Officer to affect the partition proceedings. The Revenue Officer conducted the partition proceedings and duly recorded the entry in the revenue record. If the petitioners were aggrieved by any entry made in the revenue record pursuant to the orders of the executing Court, they had the right to file an appeal under Section 16 of Land Revenue Act for correction of such entry. As far as the partition proceedings are concerned, the Revenue Officer mutates the entries in accordance with the shares of the parties, and the correctness or otherwise of such entries is subject to challenge in appropriate proceedings. The entire exercise was undertaken by the Revenue Officer pursuant to the directions of the executing Court, and the parties had every right to participate in those proceedings. Since the petitioners did not do so, they

cannot now raise this objection at this stage when the partition proceedings have already been finalized.

7. It appears that for more than 90 years, since the death of Ghulam Hussain in 1937, his daughter has been deprived of her lawful share, which reflects the conduct of the parties in depriving the daughters of their rights of inheritance. Though the legislature has taken coercive measures and has treated such actions as a criminal wrong under Section 498 PPC, the perpetually erring party is still not willing to mend his ways. This attitude cannot be accepted by any court of law at any cost, and the parties cannot be allowed to continue to deprive the legal heirs of the fruits of the inheritance. This reflects despondency on the part of the petitioner, which cannot be tolerated in any manner. The executing court, in these circumstances, is directed to complete the execution proceedings within one month from the date of this order, and if any hindrance is caused, the same shall be dealt with by imposing heavy costs.

8. In wake of above discussion being meritless, this petition is hereby dismissed with no order as to costs.

JUDGE