Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

CP No.D-5206 of 2025

(Muhammad Umar Khan and others v. the Province of Sindh and others)

Date	Order with signature of Judge

Before:

Mr. Justice Riazat Ali Sahar

Mr. Justice Muhammad Hasan (Akber)

Date of hearing & order: 11.11.2026

None present for the petitioners
Mr. Imtiaz Ali Shah, Advocate for Intervener
Mr. Abdul Jalil Zubedi, Additional Advocate General Sindh

ORDER

RIAZAT ALI SAHAR, J. None has appeared on behalf of the petitioners despite repeated calls. Learned Additional Advocate General, Sindh, is present. Since the instant petition pertains to an old matter, instead of dismissing it merely for non-prosecution, we have considered it appropriate to examine the pleadings, annexures and other material available on record in order to determine whether any case for interference in the exercise of constitutional jurisdiction is made out.

2. Briefly, the case of the petitioners is that they are the legal heirs of late Munawar Khan Afridi, who allegedly purchased two properties bearing Nos. LR-10/27, admeasuring 905 square yards, and LR-10/30, admeasuring 2029 square yards, situated at Lawrence Quarters, Karachi (hereinafter referred to as the "**subject properties**"), from Ch. Amjad and his wife, Mst. Irshad Begum. The petitioners claim to be in lawful possession of the subject properties, where they are allegedly carrying on their respective businesses. Their grievance is that the Mukhtiarkar (Garden South) and the Deputy Commissioner, South, Karachi, issued notices under Section 22 of the Land Revenue Act on the premise that the lease granted for a period of thirty years had expired. It is further alleged that on 20.10.2025, the revenue officials, accompanied by

other personnel, entered the subject properties and sealed a community hall. Through the instant petition, the petitioners seek declarations that the impugned actions of the official respondents are illegal, unlawful and without lawful authority, suspension of the notices, directions for renewal of the lease, and protection against sealing, dispossession or interference with their alleged possession.

3. Mr. Imtiaz Ali Shah, learned counsel appearing on behalf of the proposed intervener, Muhammad Riaz, submits that his client acquired the subject property from its previous owner, Mst. Shahnaz Begum, through a registered sale deed dated 17.03.1999, whereafter the transaction was duly reflected in the relevant record of rights. He further submits that Civil Suit No. 134 of 2019 was dismissed on 05.10.2020, whereas Civil Suit No. 2952 of 2025, instituted by the petitioners concerning the subject properties, is presently pending adjudication before the competent Civil Court. He also refers to the dismissal of his client's application under Order I Rule 10 CPC in the said suit vide order dated 20.04.2026. According to learned counsel, the petitioners have not approached this Court with complete disclosure of the material facts and have attempted to invoke constitutional jurisdiction despite the existence of disputed questions of title and possession.

4. We have considered the submissions advanced by learned counsel for the proposed intervener and examined the available record with the assistance of learned Additional Advocate General, Sindh.

5. At the outset, it is evident that the controversy raised through the instant petition essentially revolves around seriously disputed questions of fact relating to ownership, title, possession and the respective rights of the contesting parties over the subject properties. The petitioners claim to have derived title through their predecessor, late Munawar Khan Afridi, who allegedly purchased

the properties from Ch. Amjad and Mst. Irshad Begum. On the other hand, the proposed intervener asserts an independent and competing claim of ownership on the strength of a registered sale deed dated 17.03.1999. The determination of these rival claims necessarily requires examination of the relevant title documents, revenue entries, chain of ownership and other evidence, which cannot appropriately be undertaken in proceedings under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. Likewise, the allegations regarding forcible entry, sealing of the community hall and unlawful demands by the officials are disputed factual assertions, which have not been substantiated through any independent or reliable material sufficient to warrant constitutional intervention. Such controversies require evidence and, where necessary, cross-examination of witnesses, for which the ordinary civil forum is appropriately equipped.

6. Another significant aspect of the matter is that the petitioners themselves acknowledge the expiry of the thirty-year lease, yet seek a direction compelling the competent authorities to renew the same. It is a settled principle that a writ of mandamus can be issued only where the petitioner establishes the existence of a legally enforceable right corresponding to a statutory or public duty imposed upon the respondent authority, and demonstrates failure or refusal to discharge that duty. In the present case, the petitioners have neither identified any provision of law nor produced any contractual stipulation conferring upon them an unconditional or vested right to renewal of the lease. There is also nothing on record to establish that any application for renewal was submitted to the competent authority and declined through an order susceptible to judicial review. In the absence of an established legal entitlement and corresponding failure to perform a public duty, no direction for compulsory renewal of the lease can be issued in the exercise of constitutional jurisdiction.

7. The record further reveals that the dispute concerning the subject properties has already been brought before the competent Civil Court. The proposed intervener has referred to the dismissal of Civil Suit No. 134 of 2019 on 05.10.2020 and the pendency of Civil Suit No. 2952 of 2025, instituted by the petitioners themselves. The dismissal of the proposed intervener's application under Order I Rule 10 CPC in the latter suit has also been brought to our notice. Without expressing any opinion regarding the legality, effect or merits of those proceedings, it is sufficient to observe that the existence of competing claims of ownership and possession, coupled with pending civil litigation concerning the same properties, makes it inappropriate for this Court to undertake a parallel determination of such disputed private rights in constitutional proceedings. The questions of title, possession and entitlement to declaratory or injunctive relief are matters falling within the jurisdiction of the competent Civil Court, to be decided upon proper pleadings and evidence.

8. We have also noticed a material inconsistency in the petitioners' own pleadings. While paragraph 1 of the petition suggests that the petitioners and their families are residing in and conducting business from the subject properties, paragraph 5 refers to the sealing of a community hall allegedly under the possession of the "Petitioner Jamaat". Admittedly, the said Jamaat has not been impleaded as a petitioner, nor has any authorization, resolution or other document been placed on record establishing the petitioners' authority to institute proceedings on its behalf. This discrepancy further reinforces the uncertainty surrounding the nature and extent of the petitioners' asserted possession and the capacity in which the present proceedings have been instituted.

9. There is yet another legal impediment to the maintainability of the instant petition. The petitioners have called in question notices allegedly issued by the revenue authorities under the applicable land revenue law. The statutory framework governing

revenue proceedings provides remedies, including appeal, revision or review, subject to the nature of the impugned proceedings and the relevant statutory provisions. The petitioners have not demonstrated that they availed any such remedy or that the available statutory mechanism was inadequate or ineffective in the circumstances of the case. It is well settled that constitutional jurisdiction under Article 199 of the Constitution is discretionary and is ordinarily not invoked where an adequate and efficacious remedy is available under the law, unless exceptional circumstances justifying departure from that principle are established. No such exceptional circumstances have been demonstrated in the present case.

10. Furthermore, the reliefs sought by the petitioners are substantially in the nature of declaration of proprietary rights, protection of possession and permanent injunction against the official respondents. Such reliefs cannot be granted merely on the basis of disputed assertions, particularly when the petitioners have already instituted civil proceedings concerning the subject properties. The constitutional jurisdiction of this Court is not intended to substitute the ordinary jurisdiction of the Civil Court for adjudication of disputed questions of private ownership and possession. The mere allegation that an official act is illegal or without lawful authority does not, by itself, render every dispute amenable to constitutional jurisdiction, particularly where the foundation of the claim rests upon contested facts requiring evidence.

11. We are also mindful that, despite repeated calls, neither the petitioners nor their counsel have appeared to pursue the matter, clarify the factual controversies or assist the Court regarding the legal basis of the reliefs claimed. Nevertheless, having independently examined the available record, we are satisfied that the petitioners have failed to establish any enforceable legal right warranting interference by this Court under Article 199 of the

Constitution. The petition suffers from disputed questions of fact, the existence of an alternative statutory remedy, and the pendency of civil proceedings involving competing claims over the subject properties. Consequently, no case for exercise of extraordinary constitutional jurisdiction is made out.

12. For the foregoing reasons, the instant constitutional petition is **dismissed**, along with all pending applications. The application filed by the proposed intervener under Order I Rule 10 CPC also stands disposed of as having become infructuous. It is, however, clarified that the observations made herein are confined strictly to the question of maintainability and the exercise of constitutional jurisdiction and shall not be construed as a determination of the ownership, title, possession or other substantive rights of either party. The competent Civil Court shall decide the pending proceedings independently, strictly in accordance with law and on the basis of the evidence brought before it, without being influenced by any observations contained in this order. Similarly, the competent revenue authorities shall remain at liberty to proceed in accordance with law, subject to the rights and remedies available to the parties. Nothing contained herein shall prejudice the petitioners' right to seek appropriate relief before the competent forum, if otherwise permissible under the law.

JUDGE

JUDGE

Nadir*