

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Muhammad Saleem Jessar;
Mr. Justice Abdul Hamid Bhurgri.

C.P No.D-6301 of 2026

[Choudhary Danish v. Government of Sindh and others]

Petitioner : Through Mr. Shahrukh Amin, Advocate

Respondents : Nemo.

Date of Hearing : 29.09.2026

Date of Order : 29.09.2026

ORDER

Abdul Hamid Bhurgri, J.- Through instant petition, the petitioner has prayed for the following reliefs:-

- a) *Direct Respondents No.3 to 8 and their subordinate police officials to act strictly in accordance with law and not to harass, intimidate, threaten, coerce or pressurize the Petitioner in relation to the suit property;*
- b) *Direct the official Respondents not to facilitate or participate in any attempt to forcibly dispossess the Petitioner from the suit property, except strictly in accordance with law;*
- c) *Direct Respondent No.9, being the Chairman, Market Committee, New Sabzi Mandi, Karachi, to maintain law and order within the premises of the Market Committee and the vicinity of the suit property and to ensure that no person, including Respondent No.11 or any person acting at his instance, creates any disturbance, threatens, intimidates, harasses or attempts to forcibly dispossess the Petitioner from the suit property, and to ensure that no action prejudicial to the Petitioner's possession is taken except strictly in accordance with law and subject to the orders passed by the competent Civil Court;*
- d) *Direct the official Respondents to ensure that the interim/status-quo order passed by the learned Senior Civil Judge, Karachi Malir in Civil Suit No. 1206 of 2026, as subsequently extended, is not frustrated or circumvented through police or official machinery;*
- e) *Direct Respondent No.11 to refrain from causing, procuring or facilitating any harassment, intimidation, coercion or unlawful interference with the Petitioner, his possession, business or peaceful enjoyment of the suit property through police officials, government functionaries, agencies or any person acting at his instance;*

2. The case set up by the petitioner is that he claims to be the lawful owner of Shop No.18, Block CAP-IV (Vegetable Section), measuring 374 square feet, situated at New Fruit & Vegetable Market, Super Highway, Karachi. In respect of the said property, he has already instituted Civil Suit No.1206 of 2026, which is pending before the learned Senior Civil Judge, Malir, Karachi. It is stated that during pendency of the suit, the learned Civil Court, vide order dated 06.08.2026, directed the parties to maintain status quo. The grievance of the petitioner is that, notwithstanding the said order, interference with his possession is being attempted. It is further stated that the petitioner approached the official respondents, including Respondent No.6, through an application dated 23.09.2026, but no effective protection was provided, compelling him to invoke the constitutional jurisdiction of this Court.

3. We have heard learned counsel for the petitioner and examined the material available on record. At the outset, learned counsel was confronted with the maintainability of the instant petition, particularly when the competent Civil Court is already seized of the dispute and an interim order has admittedly been passed therein. The principal grievance now projected before us substantially concerns the alleged interference with the subject property despite the subsisting order of the Civil Court. Learned counsel could not satisfy us as to why the remedies available before the Court already seized of the matter would not adequately address the grievance or why the extraordinary constitutional jurisdiction of this Court should simultaneously be invoked for securing compliance with an interlocutory order passed in pending civil proceedings.

4. Article 199 of the Constitution confers an extraordinary and discretionary jurisdiction, exercise whereof is conditioned, inter alia, by the absence of another adequate remedy provided by law. It is well settled that availability of an alternate remedy does not constitute an absolute bar to constitutional jurisdiction; nevertheless, where an adequate and efficacious remedy exists before the competent forum, constitutional jurisdiction is not ordinarily exercised unless exceptional circumstances, such as patent want of jurisdiction, manifest illegality or infringement of a fundamental right incapable of adequate redress through the ordinary remedy, are

demonstrated. No such exceptional circumstance has been shown in the present case.

5. More importantly, the petitioner has already chosen the competent Civil Court for adjudication of his rights in respect of the subject property and has obtained an interim order from that Court. If such order is being violated or circumvented, the law provides remedies before the very Court which passed it. Order XXXIX Rule 2(3), CPC provides a mechanism in relation to disobedience of an injunction, while the inherent jurisdiction under Section 151, CPC, where lawfully attracted, remains available to the Civil Court to secure the ends of justice and prevent abuse of its process. The petitioner cannot, without demonstrating inadequacy of those remedies or some exceptional circumstance warranting constitutional intervention, maintain parallel proceedings before this Court substantially for securing implementation of an interlocutory order passed by the Civil Court. Proceedings under Order XXXIX Rule 2(3), CPC have consistently been entertained for alleged disobedience of injunction orders.

6. There is yet another aspect. The allegations regarding possession, interference therewith, conduct attributed to the private respondent and the alleged involvement of official functionaries necessarily raise questions of fact. Their determination may require examination of the respective claims, documents and evidence of the parties. Constitutional jurisdiction is not ordinarily intended for resolution of seriously disputed questions of fact requiring such evidentiary inquiry, particularly when the underlying property dispute is already sub judice before the competent Civil Court.

7. We are, therefore, not persuaded to exercise extraordinary constitutional jurisdiction in the circumstances of the case. The petitioner shall, however, be at liberty to approach the learned Civil Court seized of Civil Suit No.1206 of 2026 for redress of any alleged breach, violation or circumvention of the order passed therein, or to avail any other remedy available to him before the competent forum in accordance with law. Needless to clarify that nothing observed herein shall be construed as an expression of opinion on the petitioner's title or possession, the merits of the pending civil suit, or whether the interim order has in fact been

violated. All such questions shall remain open for determination by the competent forum strictly in accordance with law.

8. Consequently, this Constitution Petition, being misconceived in the present form, is dismissed in *limine*, along with all listed applications, if any, with liberty to the petitioner to avail the remedies available to him under the law before the competent forum.

9. Before parting, we may observe that invoking constitutional jurisdiction for securing enforcement of an interlocutory order passed by a subordinate Court, without first pursuing an adequate remedy available before the Court concerned, results in avoidable multiplicity of proceedings and ought not to be encouraged. While the circumstances could warrant imposition of costs, we refrain from doing so in the present case.

JUDGE

JUDGE
HEAD OF CONST. BENCHES

Ayaz Gul