

**IN THE HIGH COURT OF SINDH, CIRCUIT
COURT HYDERABAD**

C.P No. S-630 of 2025

[Shabbir Hussain Hashmi v. SSP Hyderabad and others]

Petitioner : Shabbir Hussain Hashmi through
Mr. Aqeel Ahmed Siddiqui,
Advocate.

Respondents : SSP Hyderabad and others through
Mr. Muhammad Ismail Bhutto,
Additional A.G. Sindh.

Date of Hearing : 20.02.2026

Date of Judgment : 20.04.2026

JUDGMENT

RIAZAT ALI SAHAR. J. - Through the instant Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner assailed the order dated 23.02.2023 passed by learned appellate Court/VIth Additional District Judge/MCAC-II, Hyderabad in Civil Revision Application No.127/2022, which was dismissed by affirming the findings of the learned trial court/Senior Civil Judge-I, Hyderabad recorded through order dated 05.11.2022 whereby plaint of the Suit filed by the petitioner was dismissed. Hence, the petitioner has invoked the constitutional jurisdiction of this Court with the following prayers:-

- a) That this Honourable Court may be pleased to set aside the both impugned order 23-02-2023 passed by the learned Model Court Appellate Court-II/VIIth Additional District Judge, Hyderabad in Civil Revision Application No.127/2022 (Re-Shabbir Hussain Hashmi V/s SSP Hyderabad and others) and order 05-11-2022 passed by learned 1st Senior Civil Judge, Hyderabad in F.C Suit No. Nil of 2022 (Re-Shabbir Hussain Hashmi V/s SSP Hyderabad and others) and matter may be remanded to trial court after recording evidence of the respective parties.*

b) Any other relief which the Honourable Court deems fit and proper in view of the above fact of Petitioners and in the interest of justice.

2. The background of the case is that the petitioner the petitioner, a practicing advocate and citizen of Pakistan, claims lawful possession of a residential property bearing House No. G/73 situated at Rishi Ghat, Hyderabad, allegedly allotted to his father through an entitlement slip dated 03.09.1978 issued by the Katchi Abadi authorities after completion of codal formalities. The petitioner stated that the property remained in peaceful possession of his family for decades and was later constructed into a multi-storey RCC structure. According to the petitioner, on 16.05.2022, respondents No.2, 3 and 4, being police officials, forcibly dispossessed him from the said property without due process of law, despite his belongings remaining therein. Aggrieved, the petitioner filed a suit under Section 9 of the Specific Relief Act seeking recovery of possession, mesne profits and permanent injunction. The learned 1st Senior Civil Judge, Hyderabad, after hearing on maintainability, rejected the plaint under Order VII Rule 11 CPC vide order dated 05.11.2022, holding the suit to be incompetent.

3. Pursuant to notice the respondents 1 and 2 filed their respective written statements whereby they have categorically denied the petitioner's claim and stated that the disputed property bearing City Survey Nos.265 and 266, Ward-G, is government land exclusively owned and possessed by the Police Department since 1922, duly reflected in revenue and city survey records. It is further stated that upon demarcation conducted by the revenue authorities, the structure allegedly claimed by the petitioner was found to be an illegal encroachment within City Survey No.266. The respondents further stated that no property bearing No.G/73 exists in official record and the petitioner is attempting to usurp valuable state land through fabricated claims. It is further stated that lawful proceedings under the Sindh Public Property Removal

of Encroachment Act, 2010 were initiated and encroachments, including that of the petitioner, were removed in accordance with law. The respondents emphasized that multiple proceedings initiated by the petitioner, including civil and criminal applications, have already been dismissed by competent courts, and the present petition is a misuse of the process of law.

4. Learned counsel for the petitioner, by reiterating the contents of the plaint, contended that the petitioner was in settled possession of the property on the strength of an entitlement slip issued by the competent authority and was illegally dispossessed by the respondents without due course of law. He contended that the suit under Section 9 of the Specific Relief Act was maintainable on the basis of prior possession alone and did not require proof of title. He further contended that disputed questions of fact, including ownership and demarcation, could only be resolved after recording evidence and the rejection of plaint under Order VII Rule 11 CPC was illegal. He further contended that the courts below failed to exercise jurisdiction properly and dismissed the matter on technical grounds, thereby causing grave miscarriage of justice. Hence, learned prayed that the petition may be allowed and the case may be remanded for full-dressed trial.

5. On the other hand, learned Additional Advocate General Sindh, by reiterating the stance taken in the written statements, contended that the petitioner has no lawful right, title, or interest in the property, which is established government land belonging to the Police Department. He contended that the alleged structure of the petitioner was an encroachment, duly identified through demarcation and removed through lawful proceedings. He further contended that the suit was barred under Section 9 of the Specific Relief Act, as it was instituted against the Province of Sindh and the plaint did not disclose any valid cause of action. He further contended that the courts below rightly rejected the plaint at the threshold to prevent abuse of process and no interference is warranted in constitutional jurisdiction.

6. Heard and perused the record.

7. It is a well-settled principle that while exercising constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, this Court does not sit as a court of appeal over the findings recorded by courts below. The scope of such jurisdiction is supervisory in nature, confined to examining whether the impugned orders suffer from any jurisdictional defect, patent illegality, perversity, or misreading/non-reading of material evidence. This Court cannot reappraise evidence, substitute its own findings, or interfere merely because another view is possible on the same set of facts. Interference is warranted only where it is demonstrated that the subordinate courts have acted without lawful authority or in excess of jurisdiction.

8. It is also a well-settled proposition of law that for the purpose of deciding an application under Order VII Rule 11 CPC, the Court is to confine itself to the averments contained in the plaint and the documents appended therewith. If from such examination it appears that the suit is barred by law or does not disclose a cause of action, the Court is under a legal obligation to reject the plaint at the earliest stage. This principle is rooted in the doctrine that frivolous or incompetent litigation should not be permitted to consume judicial time. In the present case, even if the assertions of the petitioner are taken at their face value, it is apparent that the suit was instituted against official respondents, including the Province of Sindh, for recovery of possession under Section 9 of the Specific Relief Act. The statutory bar contained in the said provision explicitly prohibits institution of such suits against the Federal or Provincial Government. Thus, the suit was inherently incompetent and hit by an express provision of law. **Moreover, the material available on record, including the stance taken in the written statements, reflects that the property in question forms part of government land recorded in the name of**

the Police Department since 1922. The demarcation carried out by the competent revenue authorities further established that the alleged structure of the petitioner was an **encroachment** within City Survey No.266. The claim of the petitioner regarding existence of property bearing No.G/73 is not supported by official record, thereby rendering his claim doubtful. Even otherwise, an entitlement slip, as relied upon by the petitioner, does not confer an indefeasible title, particularly when it is in conflict with longstanding revenue entries.

9. The contention of the petitioner that disputed questions of fact required trial proceedings is of no avail in the face of a clear legal bar. Where a suit is *ex facie* not maintainable, the Court is justified in terminating the proceedings at the threshold rather than prolonging litigation unnecessarily. The learned trial court, therefore, rightly exercised its jurisdiction in rejecting the plaint, and the revisional court has also correctly upheld the same by assigning sound and cogent reasons. Furthermore, the conduct of the petitioner, as reflected from the record, shows that he has pursued multiple proceedings before different forums, all of which have culminated against him. This pattern indicates an attempt to prolong litigation and assert a claim over government property without lawful basis, which cannot be countenanced by this Court.

10. For what has been discussed above, I am of the considered view that the impugned orders do not call for any interference. The petition is devoid of merit and is accordingly **dismissed**. The orders dated 05.11.2022 and 23.02.2023 are **maintained**. There shall be no order as to costs.

JUDGE