

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**C.P No.D-3545 of 2025**  
*[Shamim Akhtar. v. Province of Sindh & others]*

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Before:  
Mr. Justice Zulfiqar Ali Sangi;  
Mr. Justice Abdul Hamid Bhurgri.

- 1. For orders on office objections
- 2. For orders on CMA No.14873/2024.
- 3. For hearing of main case.

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**Date of hearing:- 27.08.2025**

Ms. Shamim Akhtar, Advocate/Petitioner present in person.  
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**Abdul Hamid Bhurgri, J.-** The Petitioner through this petition has prayed for the following relief:-

- a) ***To direct the Respondent No.3 & 4 to remove illegal construction from properties of the Petitioner i.e., 13 Plots bearing No.108,109,110,111,112,113,114,137,138,139 ,140,141,142 situated at Naik Muhammad Goth, NC-30, Sector-38, District West, Gadap Town, Karachi such illegal construction raised by the respondents No.6&7 with connivance of their gunda elements without availing proper approval & site plane etc on urgent basis in order to avoid from complication & law and force situation in the area.***
- b) ***To restrain the Respondents No.6 & 7 grant permanent injunction against the defendants thereby restraining them, their agents, servants, colleagues, representatives and/or anybody else acting through them or on their behalf from allowing the land grabbers from raising further illegal construction over said properties without due course of law.***
- c) ***To direct the Respondents No.1 to 5 to take legal action against the Respondents No.6 & 7 and their companions who illegally occupied over said properties of Petitioner illegally and unlawfully.***
- d) ***To direct the Respondents No.1 to 5 to provide legal protection to the Petitioner and her family members at the hands of Respondents No.6 & 7 and their companions.***
- e) ***Any other relief deemed proper may be granted to Petitioner.***

2. The brief facts, as set out, are that in the year 2019 the Petitioner lawfully purchased thirteen plots, bearing Nos. 108 to 114 and 137 to 142, situated at Naik Muhammad Goth, NC-30, Sector-38, District West, Gadap Town, Karachi, from Respondents Nos. 6 and 7, for a total consideration of Rs. 120,00,000/-. The consideration was duly discharged by way of pay orders and cheques pursuant to a written Sale Agreement. In order to arrange such payment, the Petitioner disposed of her only residential bungalow, thereby demonstrating bona fide intention to lawfully acquire the said properties. It is further pleaded that, following payment and delivery of possession, the Petitioner raised construction of a market comprising seventeen shops. However, at the instigation of Respondents Nos. 6 and 7, Respondent No. 3 unlawfully demolished the said construction, causing the Petitioner grave financial loss and severe mental distress. Thereafter, Respondents Nos. 6 and 7 unlawfully re-occupied the subject properties, erected illegal constructions of shops, and let them out for their own pecuniary benefit. It is alleged that Respondents Nos. 6 and 7 are notorious land grabbers, who since 2015 have indulged in fraudulent multiple sales of plots to various innocent purchasers, including the present Petitioner, thereby amassing illicit wealth through deceit, fraud, and corruption. The Petitioner avers that, despite repeated complaints to the competent authorities, no remedial action has been undertaken, giving rise to grave apprehension that the said Respondents may create third-party interests or further extend their unlawful and illegal constructions upon the properties in question. In the circumstances, the Petitioner asserts that he is left without any efficacious remedy, and therefore has been constrained to invoke the extraordinary constitutional jurisdiction of this Court for the redressal of her grievances.

3. We have heard the petitioner, who is appearing in person and perused the material available on record.

4. It is well settled that the extraordinary constitutional jurisdiction of this Court cannot be invoked to adjudicate disputed questions of fact which necessarily require a factual probe, examination of evidence, and determination of conflicting versions of the parties. The controversy raised by the Petitioner involves

allegations of fraudulent sale, demolition of constructed shops, and re-occupation of property by private respondents, which are essentially civil disputes falling within the domain of competent civil fora. Such questions cannot be resolved on the basis of pleadings alone in writ jurisdiction.

5. The record reflects that the Petitioner is, in fact, attempting to settle a private property dispute with Respondents Nos. 6 and 7 under the garb of constitutional proceedings. Constitutional jurisdiction is discretionary and equitable in nature, and one who seeks such relief must approach the Court with clean hands. The conduct of the Petitioner, who alleges collusion and fraud yet seeks enforcement of private rights against private respondents, disentitles her to any indulgence from this Court. The Honourable Supreme Court has time and again held that constitutional jurisdiction cannot be converted into a substitute for ordinary civil remedies. Reliance is placed on the case of *Jameel Qadir and another v. Government of Balochistan, Local Government, Rural Development and Agrovilles Department, Quetta through Secretary and others* (2023 SCMR 1919), wherein the Honourable Supreme Court has held as under:-

*13. The writ jurisdiction of the High Court cannot be worn out as a solitary way out or remedy for aerating all sufferings and deprivations. The doctrine of exhaustion of remedies stops a litigant from pursuing a remedy in a new court or jurisdiction until the remedy already provided under the law is exhausted. The underlying principle accentuated in this doctrine is that the litigant should not be encouraged to circumvent or bypass the provisions assimilated in the relevant statute. The extraordinary jurisdiction of the High Court under Article 199 of the Constitution cannot be reduced to an ordinary jurisdiction of the High Court. It is a well settled exposition of law that disputed questions of facts cannot be entertained and adjudicated in the writ jurisdiction. The expression "adequate remedy" signifies an effectual, accessible, advantageous and expeditious remedy.*

6. Even otherwise, an efficacious alternate remedy is available to the Petitioner before the competent court of law for redressal of her grievance regarding alleged encroachment or fraudulent transfer of property. This Court is not inclined to entertain the petition in the face of such statutory remedies. Nonetheless, it is

observed that the official respondents are duty-bound to act strictly in accordance with law, and in the event that any illegal encroachment or unauthorized construction by Respondents Nos. 6 and 7 is established, appropriate action may be initiated by the concerned authorities under the law.

7. For the foregoing reasons, this petition, being misconceived and involving disputed questions of fact not amenable to writ jurisdiction, is not maintainable under Article 199 of the Constitution. The Petitioner, having an adequate alternate remedy before the competent forum, cannot be permitted to invoke the extraordinary jurisdiction of this Court for settlement of a private dispute. Accordingly, the petition stands dismissed to the extent of prayer clause No.(a) to (c), however, official respondents are directed to provide protection to the petitioner as and when required. However, it is clarified that the official respondents shall remain at liberty to proceed strictly in accordance with law in case any encroachment or unauthorized construction by the private respondents is established.

Copy of this order be transmitted to the official respondents for information.

JUDGE

JUDGE

Ayaz Gul