

Deputy Registrar (Judl.)

**IN THE HON'BLE HIGH COURT OF**  
**SINDH AT KARACHI**

3780

CR. REVISION APPL. NO. 178 OF 2020

**RASOOL BUX****S/o AHMED (LATE)**

Muslim, Adult, Resident of  
 Yousuf Goth, Hub River Road,  
 Karachi

-----APPLICANT

**VERSUS**

1. **THE DIRECTOR (LAND) KMC,**  
 having office at KMC Head  
 Office Building, M.A.Jinnah Road,  
 Karachi.
2. **THE DEPUTY DIRECTOR KMC (LAND)**  
 having office at KMC Head Office Building,  
 M.A.Jinnah Road, Karachi.
3. **THE ASSISTANT DIRECTOR (LEASES)**  
 KMC Lyari Town, Having office  
 at Lea Market, Karachi.
4. **THE SUB REGISTRAR,**  
 Lyari Town, Karachi.
5. **MST. RABIA W/o DOST MUHAMMAD**
6. **GHULAM MUSTAFA S/o DOST MUHAMMAD.**
7. **GHULAM MURTAZA S/o DOST MUHAMMAD.**
8. **GHULAM ALI S/o DOST MUHAMMAD**
9. **NASEER AHMED S/o DOST MUHAMMAD.**  
 Respondent No.5 to 9 Muslims, Adults,  
 Residents of House No.799, Photo Lane,  
 Chakiwara, Lyari, Karachi.
10. **THE COURT OF SPECIAL JUDGE,**  
 Anti-Corruption, (Provincial)  
 at Karachi

-----RESPONDENTS

11. *The State*



**IN THE HIGH COURT OF SINDH, AT KARACHI**

Cr. Rev. Application No.179 of 2020  
[Rasool Bux vs. Director (Land) KMC & Others]

For Applicant:	Mr. Muhammad Arif Khan, advocate along with applicant.
For K.M.C.:	Mr. Shaukat Ali Shaikh, advocate a/w Sahabul Islam, Director Land KMC and Mashkoor Khan, Assistant Director, Land Lyari Town, Karachi
For Respondents Nos.5 to 9:	Mr. Asfandiyar Jahangir, advocate.
For State:	Muhammad Raza, DPG Sindh.
Date of hearing:	11.03.2025
Date of judgment:	11.03.2025



**JUDGMENT**

**Jan Ali Junejo, J:--** This Criminal Revision Application has been filed by the Applicant, Rasool Bux, under Section 439 read with Section 435 of the Code of Criminal Procedure, 1898, challenging the impugned order dated 24.08.2020 passed by the Learned Special Judge Anti-Corruption (Provincial), Karachi (Respondent No. 10), whereby the direct complaint filed under Section 200 Cr.P.C. in Special Case No. 07 of 2020 was dismissed. The complaint alleged offences under Sections 409, 420, 467, 468, 471, 477-A, and 34 of the Pakistan Penal Code (PPC) read with Section 5(2) of the Prevention of Corruption Act, 1947.

2. The Applicant, a legal heir of the late Ahmed Brohi, claims that the leasehold rights of Plot No. 798/799 (102) situated at Chakiwara, Lyari Quarters, Karachi, were granted to his father in 1978. After the death of his father, the Applicant

and other legal heirs sought to distribute the property according to Sharia law. However, Respondent No. 5 (Mst. Rabia) and her sons (Respondents Nos. 6 to 9) allegedly refused to release the inherited property and claimed independent ownership. The Applicant further alleges that Respondents Nos. 1 to 3 (government officials) illegally issued a fresh lease in favor of Respondent No. 5, despite the existing lease in favor of the deceased Ahmed Brohi. Additionally, a gift deed was executed in favor of Respondents Nos. 6 to 9, which the Applicant claims was done fraudulently and in collusion with the Sub-Registrar (Respondent No.4).

3. The Learned Counsel for the Applicant argued that the Special Court failed to follow the proper procedure under Section 200 Cr.P.C. by not calling for an inquiry report from the Anti-Corruption Establishment or the Investigation Officer. It was contended that the Special Court dismissed the complaint without applying judicial mind and failed to consider that the Applicant had approached the court after being denied remedy by the concerned authorities. The Counsel argued that the Special Court erred in relying on previous judgments of the apex court, which were not applicable to the facts of the present case. It was further argued that the actions of the Respondents, including the issuance of a fresh lease and the execution of a gift deed, were fraudulent and violated the rights of the Applicant and other legal heirs. The Counsel emphasized that the Special Court failed to consider the provisions of Article 10-A of the Constitution of Pakistan, which guarantees the right to a fair trial.

4. The Learned APG Sindh and Counsel for Respondents argued that the Applicant failed to follow the proper procedure by not submitting a complaint to the Anti-Corruption Establishment before approaching the Court. It was contended



that the dispute is essentially of a civil nature, involving property rights, and does not fall within the purview of criminal law or the Anti-Corruption Establishment. The Respondents argued that the execution of the gift deed were done in accordance with the law, and there was no evidence of fraud or collusion. The Learned Counsel for KMC argued that the Applicant had alternative remedies available, including the pending civil suit (Suit No. 1342 of 2019), and therefore, the criminal complaint was not maintainable. He argued that respondents No.1 to 3 are sued through designation. It is not the policy of law to sue any person through designation in criminal proceedings therefore this revision is not maintainable. Lastly, the learned APG and learned counsel for Respondents prayed for dismissal of the Criminal Revision Application.

5. This Court has carefully considered the arguments advanced by both sides, the impugned order, and the material on record. The learned Special Court observed that the complainant did not adhere to the proper procedure as outlined in the Sindh Enquiries & Anti-Corruption Rules, 1993. Specifically, the complainant approached the court directly without first filing a complaint with the Anti-Corruption Establishment and obtaining the necessary approval from the competent authority to initiate an inquiry. The Special Court stressed that the complainant could only approach the court directly if the Anti-Corruption Establishment had failed to take action on his complaint. Since the complainant bypassed this mandatory procedural step, the court ruled that the direct complaint was not maintainable. It is an admitted fact that the dispute primarily revolves around a private property matter, specifically concerning the leasehold rights of Plot No. 798/799 (102) located in Chakiwara Lyari Quarters, Karachi. The complainant alleged that the respondents, which include both



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government officials and private individuals, conspired to issue a fraudulent lease in favor of Mst. Rabia (Respondent No. 5) and executed a gift deed in favor of Respondents Nos. 6 to 9. The court reiterated that the Anti-Corruption Establishment is not authorized to handle complaints related to private property disputes. Furthermore, the Applicant himself admitted in Paragraph No. 12 of the present Revision Application that Suit No. 1342 of 2019 is currently pending before the Court of the learned IIIrd Senior Civil Judge, Karachi-South. As such, the issue of whether the gift deed was obtained through fraud or dishonesty by Respondents Nos.1 to 5 must be determined by the Civil Court in its ultimate jurisdiction. In a similar context, the Honourable Supreme Court in the case of *Rasool Khan and others v. Haji Banaras Khan and others* (PLD 2004 SC 364) observed that: "The moot point to be considered in this case is very alienation of property by Mst. Habib Jee in favour of the respondents through abovementioned mutations regarding which the Revenue as well as Anti-Corruption Authorities had held a detailed inquiry. There is no bar on the powers of the concerned Court to exercise its jurisdiction under section 249-A, Cr.P.C. and acquit an accused at any stage ever, before framing of charge, after affording an opportunity of hearing to the prosecutor and the accused, if it is found that the charge is groundless or there is no probability of accused being convicted and that further proceedings in the matter would be a futile exercise and result in abuse of process of Court. In the instant case also, trial Court while acquitting the respondents has exercised its jurisdiction exactly in accordance with law which is rightly maintained by the High Court. It would be pertinent to note that the respondents have also resorted to the civil remedy and have filed civil suit in the year 1998 which is pending adjudication, hence there was no justification to invoke the jurisdiction of the criminal Court as the very fact that the mutation was fraudulently entered or not is yet to be determined by the Civil Court". It is also a matter of record that



the Applicant seeks the cancellation of the lease for Plot No. 799, Chawkiwara, Lyari Quarters, Karachi, which was issued in favor of Mst. Rabia D/o Ahmed (Respondent No. 5). Additionally, the Applicant is challenging the declaration of an oral gift concerning the said property. However, such matters fall beyond the scope and jurisdiction of this Court, whether under Section 561-A of the Code of Criminal Procedure (Cr.P.C.) or the constitutional jurisdiction provided under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. In this context, the Honorable Supreme Court of Pakistan, in the case of *Amir Jamal and Others v. Malik Zahoor-ul-Haq and Others* (2011 SCMR 1023), specifically articulated its stance in Paragraph No. 7, stating as follows: "7. We have heard the learned counsel and have also perused the record. In exercise of writ jurisdiction, question of title of a property cannot be gone into by the High Court. The scope of Article 199 is dependent on the questions which are devoid of factual controversy. A registered instrument can only be cancelled by a civil court of competent jurisdiction on the ground of fraud or otherwise. Section 39 of the Specific Relief Act provides that a party which seeks cancellation of a registered instrument has to file a civil suit by approaching the civil court of competent jurisdiction and writ jurisdiction in such matters is barred".

6. In the case of *Imran-ul-Haq v. The State* (2019 YLR Note 80), this Court reaffirmed that it is now a settled principle of law that the Anti-Corruption Police is neither empowered nor authorized to investigate disputes involving private lands. Furthermore, the Prevention of Corruption Act, 1947 does not permit the Anti-Corruption Police to entertain complaints related to title disputes between private parties. For additional support, reference can be made to the cases of *Dilbar Hussain v. Habib ur Rehman and another* (2017 PCr.LJ Note



218), *Mohammad Moosa v. State* (2005 CLC 487), and *Khadim Hussain v. The State* (2011 PCr.LJ 1006). It is a well-established legal principle that the jurisdiction of the Special Court Anti-Corruption is confined to cases involving corruption by public servants in matters related to government property or public interest. Disputes concerning private property must be adjudicated by the Civil Courts, which have the ultimate jurisdiction in such matters.

7. The impugned order dated 24.08.2020 is both legally sound and well-reasoned. The learned Special Court correctly concluded that the complaint was not maintainable due to procedural defects and a lack of jurisdiction. The complainant's grievances regarding the alleged fraudulent lease and gift deed should be comprehensively and exhaustively addressed in the civil suit already filed by him. The impugned order is consistent with established legal principles and precedents, and there is no error in the Special Court's findings or reasoning.

8. In view of the above, this Court finds no illegality, irregularity, or jurisdictional error in the impugned order dated 24.08.2020 passed by the Learned Special Judge Anti-Corruption (Provincial), Karachi. The Criminal Revision Application is devoid of merits and is accordingly dismissed. The prayer to convert this Criminal Revision Application into a Constitution Petition under Article 199 of the Constitution of Pakistan, 1973, is also rejected, as the Applicant has adequate remedies available in the pending civil suit.



  
JUDGE