

IN THE HIGH COURT OF SINDH CIRCUIT COURT
MIRPURKHAS

Constitutional Petition No.D-1094 of 2023
Constitutional Petition No.D-673 of 2024 (MPS)

Before: Mr. Justice Amjad Ali Sahito
Mr. Justice Jan Ali Junejo

Petitioners:

Walidad S/o Qabul

Muhammad Raheem S/o Qabul

Ghulam Hussain S/o Qabul

Deceased through L.Rs.:

(i) Mst. Khair-un-Nisa — Widow

(ii) Nawaz — Son

(iii) Sultan — Son

(iv) Mst. Razia — Daughter

(v) Mst. Asma — Daughter

4. Paryal S/o Qabul

5. Mitho S/o Qabul

6. Achar S/o Qabul

7. Ali Nawaz S/o Qabul

8. Mst. Ameena D/o Qabul

9. Mst. Zareena D/o Qabul

10. Mst. Sakina D/o Qabul

Nos. 01 to 10 are L.Rs of deceased Kabul S/o Walidad Keerio.

11. Rajib S/o Abdullah

12. Ahmed S/o Abdullah

13. Mst. Sakina D/o Abdullah

14. Mst. Fatima Qazi D/o Abdullah

15. Mst. Phari D/o Abdullah

16. Mst. Khair-un-Nisa D/o Abdullah

17. Mst. Noor Bai D/o Abdullah

18. Mst. Salemat D/o Abdullah

19. Mst. Umrah Bibi D/o Abdullah

20. Mst. Maryam D/o Abdullah

Nos. 11 to 20 are L.Rs of deceased Abdullah S/o Walidad Keerio.

Through their Special Attorney:

Petitioner No. 05 — *Mitho S/o Qabul*.

Through Mir Sarfaraz Ali Talpur, advocate

Respondents:

1. Muhammad Hayat S/o Molvi Khuda Bux.

2. Hazoor Nabi S/o Molvi Khuda Bux.

Deceased through L.Rs.:

(i) Mst. Khillan — Widow

(ii) Karim Bux — Son

(iii) Raheem Bux — Son

(iv) Muhammad Bux — Son

(v) Dhani Bux — Son

3. Daud S/o Molvi Khuda Bux
4. Allah Bux S/o Molvi Khuda Bux
5. Noor Nabi S/o Molvi Khuda Bux

Deceased through L.Rs.:

- (i) Mst. Sahul — Widow
- (ii) Maula Bux — Son
- (iii) Mumtaz — Son

6. Asad Ali S/o Muhammad Hayat
7. Amanullah S/o Muhammad Hayat
8. Abdullah S/o Muhammad Hayat.
9. Syed Abu Hameed Shah Rashdi

Azad Pir Jhando, New Saeedabad .

Private respondents through Mian Taj Muhammad
Keerio advocate.

10. Member (R&S), Board of Revenue Sindh.

11. The Executive District Officer (Revenue), Sanghar,
Commissioner.

12. The District Officer (Revenue) Sanghar,
now Deputy Commissioner Sanghar.

13. The Assistant Commissioner, Taluka Sanghar.

14. Mukhtiarkar Revenue, Taluka Sanghar.

15. The Barrage Mukhtiarkar, Sanghar.

16. The Supervising Tapedar, Tapo Bakar.

17. SHO PS Chotiyarian,

Official respondents through Mr. Muhammad Sharif
Solangi, A.A.G.

Date of hearing: 15-09-2025

Date of Judgment: 15-09-2025

JUDGMENT

Jan Ali Junejo, J. – By this judgment, we propose to decide the above-captioned Constitution Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, wherein the petitioners have assailed:

(i) the order dated **14.04.2005** passed by the Executive District Officer (Revenue), Sanghar, in Revenue Appeal No. 304/145 of 2005; and

(ii) the order dated **06.06.2023** passed by the learned Member (R&S), Board of Revenue Sindh, Hyderabad, whereby the revision petition of the petitioners was dismissed as being hopelessly time-barred.

2. The facts, as emerging from the pleadings and record, may be summarized thus: The subject land bearing Survey No.492, admeasuring 02-13 acres, situated in Deh Chotiyarion, Taluka and District Sanghar, was originally granted to Walidad S/o. Mian Khan (grandfather of the petitioners) through A-Form No.374. Upon payment of all installments, the grant stood fully paid, a T.O. Form was issued, and the status of the land was changed to "Qabuli" land. The name of Walidad was duly entered in the revenue record, and after his demise, his legal heirs, namely Kabul, Abdullah, and Mst. Aisha (widow), were mutated through entry No.43 of V.F. VII-B. The petitioners claim continuous possession and payment of land revenue since the time of their forefathers. The grievance of the petitioners commenced when, in collusion with the revenue staff, the private respondents managed to obtain mutation entries on the strength of an alleged order dated 03.05.1972, purportedly passed by the Additional Commissioner, Hyderabad. These entries were challenged before the Deputy District Officer (Revenue), Sanghar, who, vide order dated 15.04.2004, found the said order to be doubtful, declared the entries in favour of the private respondents as bogus and unverified, and restored the original entry in favour of the petitioners' predecessors. The said order was maintained by the District Officer (Revenue), Sanghar, vide order dated 25.05.2004. Meanwhile, the private respondents had also instituted Civil Suit No.69 of 2003 before the Court of Senior Civil Judge, Sanghar, seeking declaration in their favour, which too was dismissed on 30.09.2004, and the appeal preferred thereagainst was subsequently dismissed in non-prosecution on 10.11.2005. The petitioners maintain that despite these concurrent findings, the Executive District Officer (Revenue), Sanghar, in Appeal No.304/145 of 2005, vide order dated 14.04.2005, proceeded to allow the claim of private respondents on the basis

of a purported “settlement” said to have taken place before one Nekmard, namely Syed Abu Hameed Shah Rashdi (popularly known as Jhundo Pir). The petitioners allege that no such genuine settlement ever took place, that the signatures and thumb impressions attributed to the Nekmard were forged, and indeed the said person himself later denied having witnessed any such settlement. Nevertheless, on the basis of the said order, entries were again mutated in favour of the private respondents, culminating in Entry No.168 dated 29.06.2015. Aggrieved, the petitioners filed Civil Suit No.95 of 2017 before the Senior Civil Judge, Sanghar, challenging the order of 2005. However, the suit was dismissed on 12.09.2019 on the ground of maintainability, with an observation that proper remedy lay before the revenue fora under section 164 of the Sindh Land Revenue Act, 1967. A Civil Appeal (No.91 of 2019) was carried before the District Judge, but the same too was dismissed on 01.10.2020, reiterating that remedy lay before the Board of Revenue. The petitioners accordingly filed a revision before the Member (R&S), Board of Revenue Sindh, Hyderabad, along with an application under section 5 of the Limitation Act explaining the delay, primarily on the ground that knowledge of the impugned order of 2005 was only acquired in 2017 when interference with possession was attempted. However, vide order dated 06.06.2023, the learned Member (R&S) dismissed the revision as hopelessly time-barred, holding that the petitioners were parties to the proceedings in 2005 and could not plead lack of knowledge.

3. It is against the concurrent orders of the Executive District Officer (Revenue), Sanghar, dated 14.04.2005, and of the learned Member (R&S), Board of Revenue Sindh, Hyderabad, dated 06.06.2023, that the petitioners have filed the present Constitution Petitions under Article 199 of the Constitution, asserting that the impugned orders are void ab initio, passed

without jurisdiction, and tainted by fraud, and thus not protected by limitation.

4. Learned counsel for the Petitioners contended that the order dated 14.04.2005 passed by the E.D.O (Revenue), Sanghar, was without lawful authority, *ex parte*, and founded upon a fabricated settlement before Nekmard, which never took place. It was urged that fraud vitiates all proceedings and limitation cannot be pressed against a void order; hence, the dismissal of revision by the learned Member (R&S), BOR, on the ground of limitation was misconceived. Counsel maintained that the Petitioners, being lawful grantees and successors of the original allottee, were illegally deprived of their property, thereby violating their fundamental rights under Articles 23 and 24 of the Constitution. He, therefore, prayed that the impugned orders be set aside and the Constitutional Petition be allowed.

5. Conversely, learned counsel for the private Respondents argued that the Petitioners' case was hopelessly time-barred, as they had full knowledge of the E.D.O's order since 2005 and even contested subsequent proceedings before civil and revenue fora. It was contended that the Petitioners failed in all such proceedings and have now invoked constitutional jurisdiction as a last resort to re-litigate settled issues. It was further submitted that revenue entries in favour of the Respondents carry statutory presumption of truth, no credible proof of fraud has been produced, and the impugned orders are well-reasoned, passed by competent authorities, and suffer from no illegality warranting interference.

6. Learned Additional Advocate General, Sindh, while adopting the submissions of the private Respondents' counsel, supported the impugned orders and added that both the E.D.O (Revenue) and the learned Member

(R&S), BOR, exercised jurisdiction lawfully vested in them. He emphasized that constitutional jurisdiction under Article 199 cannot be invoked as a substitute for appeal or revision, particularly where no violation of fundamental rights is established. He, therefore, prayed for dismissal of the Constitutional Petition.

7. We have given our anxious consideration to the arguments advanced by the learned counsel for the Petitioners and have examined the material available on record with utmost care. Before embarking upon a merits-based analysis, it is imperative to delineate the well-settled parameters within which this Court exercises its extraordinary jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. Such jurisdiction is supervisory and equitable in nature, primarily designed to ensure that public authorities act within the bounds of law. It is not appellate in character, and this Court cannot reassess evidence or substitute its own factual conclusions for those rendered by competent fora. The law is firmly settled that interference is warranted only in cases of patent illegality, want of jurisdiction, perversity, or violation of fundamental rights. Absent such circumstances, concurrent findings of fact recorded by revenue or civil authorities cannot be disturbed in constitutional proceedings. Adverting to the instant matter, it is an admitted position that the revision before the learned Member (R&S), Board of Revenue, was filed after a lapse of nearly sixteen years from the date of the impugned order of the E.D.O (Revenue) dated 14.04.2005. The plea of the Petitioners that they acquired knowledge only in 2017 is belied by the record, which demonstrates their participation in proceedings arising out of the very same order, including civil litigation pursued soon thereafter. In such circumstances, the learned Member (R&S) was fully justified in holding the revision to be hopelessly time-barred. The

Hon'ble Supreme Court has consistently held that the law of limitation is not a mere technicality but goes to the root of jurisdiction, and that every judicial or quasi-judicial forum is duty-bound to apply it *suo motu*. Equally misconceived is the Petitioners' reliance on allegations of fraud to circumvent limitation. It is trite law that fraud, if alleged, must be pleaded with specificity and proved by cogent, independent, and unimpeachable evidence. Mere bald assertions or subsequent denials are not sufficient to unsettle revenue entries that enjoy a statutory presumption of correctness under Section 52 of the Sindh Land Revenue Act, 1967. In the present case, the Petitioners have failed to discharge this heavy burden. The belated denial attributed to Nekmard, produced after lapse of years, does not meet the legal threshold required to displace settled entries. In the absence of credible proof of fraud, the presumption attached to revenue entries remains undisturbed. Thus, viewed in totality, the Petitioners have neither established any jurisdictional defect or patent illegality in the impugned orders nor demonstrated violation of their fundamental rights. On the contrary, both the E.D.O (Revenue) and the Member (R&S), BOR, appear to have exercised their lawful authority with due regard to record and legal principles. The impugned orders are reasoned, supported by material on record, and suffer from no infirmity warranting interference by this Court.

8. It is evident from the record that the Executive District Officer (Revenue) was the competent appellate authority under the Sindh Land Revenue Act, 1967 to adjudicate the appeal in the year 2005, and he exercised such jurisdiction lawfully vested in him. Similarly, the learned Member (R&S), Board of Revenue, while seized of the revision petition, not only examined the merits but also applied the law of limitation in its true perspective and dismissed the revision as hopelessly time-barred. Both authorities acted

strictly within the scope of their jurisdiction. The Petitioners' objection that the impugned orders are coram non judice or without jurisdiction is, therefore, wholly misconceived and contrary to the statutory framework. The record further reveals that the Petitioners have repeatedly invoked multiple remedies before revenue as well as civil fora over the same subject matter. Their civil suit was dismissed; the corresponding appeal met the same fate; and their revision before the Member (R&S) was rejected. Having failed before every competent forum, the Petitioners have now approached this Court in constitutional jurisdiction to reopen issues that have already attained finality. Such conduct clearly falls within the ambit of abuse of process of law. The extraordinary jurisdiction of this Court under Article 199 of the Constitution is not meant to provide a substitute for appeal or revision, nor can it be invoked as a tool to perpetuate endless litigation. It is also pertinent to observe that no infringement of the Petitioners' fundamental rights has been established. The right to property guaranteed under Articles 23 and 24 of the Constitution is not an absolute right in vacuo but is contingent upon lawful ownership or entitlement established in accordance with law. Mere dissatisfaction with the findings of competent forums or unsuccessful pursuit of remedies does not translate into a constitutional grievance. Likewise, Article 4 of the Constitution ensures protection of law to all citizens, but once the Petitioners have been heard before competent fora and adjudication has taken place, no violation of Article 4 can be said to have occurred. Thus, the invocation of fundamental rights is misplaced in the present context.

9. In the absence of any glaring illegality, jurisdictional defect, or perversity that strikes at the very foundation of the impugned orders, this Court finds no lawful justification to invoke its discretionary constitutional jurisdiction for interference. The impugned orders are supported by material

on record, rest upon concurrent findings of fact, and reflect due application of mind by the competent fora. Interference in such circumstances would not only amount to substituting this Court's opinion for that of the statutory authorities but would also transgress the well-defined limits of jurisdiction under Article 199 of the Constitution. Such intervention, if undertaken, would undermine the settled jurisprudential ethos that circumscribes constitutional review, which is supervisory in nature and not appellate. In a similar context, the Honourable Supreme Court of Pakistan, in the case of *Muhammad Aslam (deceased) through L.Rs. and another v. Molvi Muhammad Ishaq (deceased) through L.Rs. and others (2024 SCMR 1390)*, was pleased to hold that: *"We are mindful of the fact that usually concurrent findings of the lower Courts are not to be disturbed and interfered with but in cases where such findings are found to be erroneous and perverse, they are liable to be struck down if based on misreading or non-reading of the material available on the record or the evidence and are a result of miscarriage of justice"*.

10. For the foregoing reasons, we hold that:

- The impugned orders dated 14.04.2005 and 06.06.2023 are well-reasoned, lawful, and duly supported by the record.
- The revision petition was hopelessly time-barred and was rightly dismissed by the learned Member (R&S), Board of Revenue.
- The Petitioners have failed to substantiate their allegations of fraud or demonstrate any violation of fundamental rights.

Consequently, the present Constitutional Petition, being devoid of merit, stands dismissed. The parties shall bear their own costs. These constitute the detailed reasons for our short order announced on 15-09-2025.

JUDGE

JUDGE