

IN THE HIGH COURT OF SINDH AT KARACHI

Civil Revision No.31 of 2026

(Peer Bux v. Dhani Bux (Deceased) & Others)

Before:

Sana Akram Minhas J

Applicant	Peer Bux Through, Mr. Muhammad Ishrat Ghazali, Advocate
Respondent No.1	Dhani Bux (Since Deceased, through Legal Heirs) Through, Mr. Ghulam Nabi Shar, Advocate
Respondent No.2	Deputy Director, Katchi Abadis, KMC South None
Respondent No.3	Sub-Registrar–II, Clifton Town None
Date(s) of Hearing:	29-4-2026 & 13-5-2026
Date of Decision:	3-8-2026

ORDER

1. **Sana Akram Minhas, J:** Through the present Revision Application, filed under Section 115 CPC, the Applicant has assailed the order dated 9.2.2026 (“**Impugned Interlocutory Order**”) passed by the learned XIIth Additional District Judge, Karachi South in the Applicant’s Civil Appeal No.254/2025 (*Peer Bux v. Dhani Bux & Others*), whereby his interlocutory application (seeking an ad interim order of status quo) to restrain proceedings in Execution No.8/2021 (“**Execution Proceedings**”) was dismissed. The Civil Appeal itself, however, remains pending, as of the date on which this matter was reserved for orders¹.
2. Importantly:

i) Civil Appeal No.254/2025 was instituted by the Applicant to challenge the Trial Court’s order dated 22.8.2025, whereby the plaint in the Applicant’s subsequent Civil Suit No.1547/2024 (*Peer Bux v. Dhani*

¹ The instant Revision Application was reserved for orders on 19.5.2026

Bux & Others) (**“Plaint–Rejected Suit 1547”**) was rejected under Order 7 Rule 11 CPC on the ground of *res judicata*.

- ii) Execution Proceedings (i.e. Execution No.8/2021) arise out of an earlier and separate Civil Suit No.1197/2004 (*Dhani Bux v. Peer Bux & Another*) (**“Decreed Suit 1197”**) instituted by the deceased Respondent No.1. The Applicant’s challenge to the said Execution Proceedings continues notwithstanding that the Applicant’s Second Appeal No.9/2023, emanating from the said Decreed Suit, was dismissed as time-barred by this Court as far back as 20.3.2025 and the said order has since attained finality, the Applicant having elected not to pursue any further proceedings thereagainst.

Factual Background

- 3. The subject matter of the dispute is one and the same residential property (**“Suit Property”**), measuring 300 sq. yards, **described identically** by both the Applicant² and the deceased Respondent No.1³ in their respective Suits as follows:

Plot No.36/B/1 [actual 36/B], Sheet No.3
Upper Gizri, Karachi

Decreed Civil Suit No.1197 of 2004 (Dhani Bux v. Peer Bux & Another)

- 4. The deceased Respondent No.1 instituted the Decreed Suit 1197 for “*Cancellation, Declaration, Injunction, Recovery of Possession and Mesne Profits*” seeking cancellation of the lease granted by KMC (Katchi Abadis) in favour of the Applicant. The Decreed Suit 1197 was initially decreed by the Trial Court (vide judgment and decree dated 3.3.2010, which was subsequently set aside by the High Court and the matter remanded to the Trial Court, as explained below). The subsequent proceedings are summarised below:
 - i) The Applicant instituted Civil Appeal No.88/2010 (challenging the Trial Court’s pre-remand judgment and decree dated 3.3.2010 decreeing the Decreed Suit 1197). The Appeal was dismissed vide pre-remand judgment dated 20.1.2011 passed by the VIth Additional District Judge, Karachi South, thereby affirming the Trial Court’s pre-remand judgment and decree.

² See Prayer Clause “a” of Applicant’s subsequent (plaint–rejected) Civil Suit No.1547/2024

³ See Prayer Clause “i” of deceased Respondent No.1’s decreed Civil Suit No.1197/2004

- ii) The Applicant thereafter preferred Second Appeal No.28/2011 before this Court, which was allowed vide order dated 16.4.2018. The judgments and decrees of both the Trial Court and the first Appellate Court were set aside, and the matter was remanded to the Trial Court, inter alia, for determination of the issue of limitation.
- iii) Upon remand, the Trial Court, vide Judgment and Decree dated 28.9.2018, dismissed the Decreed Suit 1197 as being barred by limitation.
- iv) The deceased Respondent No.1 preferred Civil Appeal No.245/2018. By Judgment⁴ dated 15.1.2021, the learned VIth Additional District Judge, Karachi South, allowed the Appeal, set aside the Trial Court's post-remand Judgment and Decree dated 28.9.2018, and decreed the Decreed Suit 1197 as prayed.
- v) Thereafter, the deceased Respondent No.1 instituted Execution Proceedings (i.e. Execution No.8/2021) arising out of Decreed Suit 1197. The Applicant fully participated in the Execution Proceedings, a fact specifically recorded by this Court in its order dated 20.3.2025 referred to below.
- vi) Nearly two years after the first Appellate Court rendered its post-remand Judgment dated 15.1.2021 (decreeing the Decreed Suit 1197 as prayed), the Applicant instituted Second Appeal No.9/2023 before this Court challenging the said Judgment. By order dated 20.3.2025, the Second Appeal was dismissed as time-barred.
- vii) The Applicant then filed a review application (CMA No.2986/2025) seeking review of this Court's order dated 20.3.2025. The review application was also dismissed by order dated 12.12.2025.
- viii) No further proceedings were initiated by the Applicant against this Court's orders dated 20.3.2025 or 12.12.2025. Both orders have accordingly attained finality.

Plaint–Rejected Civil Suit No.1547 of 2024 (Peer Bux v. Dhani Bux & Others)

5. Thereafter in November 2024, the Applicant instituted the Plaint–Rejected Suit 1547 for “*Cancellation, Declaration and Permanent Injunction*”, inter alia, seeking cancellation of the registered lease dated 1.4.2014 issued by KMC

⁴ The Applicant has not filed a copy of the Decree; consequently, it is not available on the record

(Katchi Abadis) in favour of the deceased Respondent No.1 in respect of the Suit Property.

6. The plaint in the Applicant's Plaint–Rejected Suit 1547 was rejected by the Trial Court vide order dated 22.8.2025 under Order 7 Rule 11 CPC, on the ground that it was barred by Section 11 CPC (*res judicata*), in view of the first Appellate Court's post-remand Judgment dated 15.1.2021 decreeing the Decreed Suit 1197, which had attained finality and remained intact.

Respective Submissions

7. Learned Counsel for the Applicant emphatically contended that the properties claimed by the Applicant and the deceased Respondent No.1 bore different addresses and were, therefore, distinct. He submitted that unless and until the correct addresses and plot numbers of both properties were verified, the first Appellate Court was not justified in refusing to stay the Execution Proceedings. Accordingly, the Impugned Interlocutory Order was liable to be set aside.
8. Conversely, learned Counsel for the legal heirs of the deceased Respondent No.1 submitted that the Applicant was deliberately attempting to obfuscate the issue by creating the false impression that two different properties were involved. According to Counsel, both parties were, in fact, claiming the same property, namely the Suit Property. This was evident, he submitted, from the prayer clause of the Applicant's Plaint–Rejected Suit 1547, which described the property by the very same address as that stated in the prayer clause of the deceased Respondent No.1's Decreed Suit 1197. Counsel further submitted that the Execution Proceedings arise from Decreed Suit 1197 and that the Applicant has exhausted every remedy available in law against the post-remand Judgment dated 15.1.2021 (passed by the first Appellate Court in Civil Appeal No.245/2018). Having failed before every forum, the Applicant now seeks to indirectly assail the Execution Proceedings through the present Revision Application challenging the Impugned Interlocutory Order passed on his interlocutory application in the appeal against the rejection of the plaint in his own Plaint–Rejected Suit 1547.

Decision

9. The matter has been heard and the available record perused.
10. The sole basis on which the Applicant seeks interference with the Impugned Interlocutory Order is the contention that the property claimed by him is

different from that claimed by the deceased Respondent No.1, as the respective properties allegedly bear different addresses. On this premise, it is argued that the Execution Proceedings ought to have been stayed until the correct addresses and plot numbers were verified.

11. The submission cannot be accepted. It is significant that this contention finds no mention whatsoever in the Impugned Interlocutory Order, indicating that it was never urged before the first Appellate Court. Having been advanced for the first time before this Court, it is clearly an afterthought and cannot furnish a basis for interference with the Impugned Interlocutory Order.
12. Furthermore, the Applicant's plea that the parties claim different properties is demonstrably false. As rightly pointed out by Counsel for the legal heirs of the deceased Respondent No.1, the Applicant's own *Plaint-Rejected Suit 1547* describes the property in its prayer clause "a" by the same address as that appearing in the prayer clause "i" of *Decreed Suit 1197*. The Applicant's own pleadings, therefore, belie his assertion that two distinct properties are involved.
13. In any event, the Execution Proceedings originate from *Decreed Suit 1197*, and the post-remand Judgment dated 15.1.2021 (passed by the first Appellate Court in *Civil Appeal No.245/2018* decreeing the said Suit) has attained finality following the dismissal of *Second Appeal No.9/2023* by this Court vide order dated 20.3.2025. Thereafter, the Applicant's attempt to seek review of the latter order was also dismissed vide order dated 12.12.2025 (as detailed in paragraphs 4(vi) to (viii) above). Consequently, no further challenge survives against the post-remand Judgment dated 15.1.2021, **the Applicant having elected not to pursue any further remedy thereagainst** following the dismissal of his review application. The Executing Court is bound to execute the decree in accordance with law and cannot be restrained in collateral proceedings merely because the Applicant seeks to re-open issues that either stood concluded by the decree, ought to have been raised in the proceedings culminating in the decree, or could and ought to have been pursued through the statutory remedies available against the decree.
14. Through the present Revision Application, the Applicant seeks to challenge the Impugned Interlocutory Order passed on his interlocutory application in his appeal arising from the rejection of the *plaint* in his own *Civil Suit No.1547/2024* (i.e. the *Plaint-Rejected Suit 1547*). It bears noting that the order dated 17.12.2025, whereby the first Appellate Court suspended the Trial Court's order rejecting the *plaint* in the said Suit, remains operative. This fact was not brought to the notice of this Court by Counsel for the Applicant but came to its notice upon scrutiny of the record, whereupon learned Counsel

confirmed that the order continues to remain in force. Despite already enjoying such interim protection, the Applicant seeks, in substance, to stay the Execution Proceedings arising from Decreed Suit 1197 pursuant to the post-remand Judgment dated 15.1.2021, which has long since attained finality, and which arises from a different Suit (namely, the deceased Respondent No.1's Decreed Suit 1197). In effect, the Applicant now seeks to achieve indirectly what he has been unable to achieve directly through the remedies available against the said Judgment. Such a course would amount to a collateral attack on proceedings that have already attained finality and cannot be countenanced.

15. It is, however, clarified that Civil Appeal No.254/2025 remains pending before the first Appellate Court and shall be decided independently on its own merits, in accordance with law. The present Order is confined solely to the legality of the Impugned Interlocutory Order assailed in the instant Revision Application.
16. Subject to the above clarification, the first Appellate Court correctly appreciated the nature of the controversy and rightly declined to stay the Execution Proceedings (i.e. Execution No.8/2021). The Impugned Interlocutory Order, therefore, warrants no interference by this Court.
17. Consequently, the present Revision Application, being devoid of merit, is **dismissed with costs** of Rs.20,000/- (*Rupees Twenty Thousand*). The Applicant shall deposit the said costs in the account of the High Court Clinic within fifteen (15) days of this Order.

JUDGE