

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-4597 of 2026

[Kaghan Cooperative Housing Society Ltd. V. Province of Sindh and others]

Date	Order with signature of Judge(s)
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Before:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing and Order: 13.08.2026

Syed Tanveer Ashraf, Advocate for the Petitioner
Mr. Muhammad Vawda, Advocate for Respondent No.3
Mr. Ansarullah, Advocate for Respondent Nos.3 (i) to 3 (vi)
Mr. Muhammad Azhar, Advocate for Intervener
Mr. Ali Safdar Depar, AAG.

ORDER

Adnan-ul-Karim Memon, J. – Petitioner has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief:

- “i) Set aside the order dated 13.05.2026, passed by the Respondent No. 5, and all actions initiated by the Respondent No. 4, by virtue of the said orders, may be declared as illegal and without lawful authority.
- ii) The Respondent No. 4 may be directed to immediately unlock the office of the Society and hand over the charge along with all records and documents of the Society to its Honorary Secretary and elected members
- iii) Reject the plaint of Suit No. 3345/2026, under order VII rule 11 CPC, as the suit has been filed in violation of Article 201 of the Constitution, as the election of the Society has already been held on 20.07.2025, under the directions of this Hon'ble Court, vide order dated 23.05.2025 The charge of the Society has also been handed over to the newly elected members of the Managing Committee of the Society by the ex-Administrator, in terms of clause (ix) of the aforesaid orders Le dated 23.05.2025.
- iv) An inquiry may be ordered against the Respondent No. 4 (the C.O.C/Incharge Nazir, of the Special Court for Cooperative Societies / V^a Senior Civil Judge, Karachi-West), against his illegal and fraudulent action as highlighted in para-18 to 23 above and punish him in accordance with law
- (v. Any other relief as this Hon'ble Court may deem fit.”

2. Learned counsel for the petitioner submitted that the petitioner is a duly registered Cooperative Housing Society established in 1971, comprising residential, commercial and amenity plots in KDA Schemes 33 and 45. He contended that, despite repeated litigation and directions of this Court, the affairs of the Society had remained plagued by disputed memberships, forged and

duplicate plot files, irregular voter lists and prolonged appointment of administrators. He submitted that pursuant to orders passed by this Court in C.P. No.5705/2022 and subsequent proceedings, the membership and voter lists were scrutinized and elections were ultimately held on 20.07.2025, whereafter the results were notified on 06.11.2025 and charge of the Society was handed over to the newly elected Managing Committee on 13.11.2025. According to learned counsel, the newly elected committee thereafter discovered that the Society's original record was missing and took steps to recover the same, including lodging complaints with the police and approaching the Registrar. Learned counsel further submitted that, notwithstanding the aforesaid election and the subsisting orders of this Court, Respondent No.5, in Suit No.3345/2026, purportedly passed an order dated 13.05.2026 appointing Respondent No.4, the Incharge Nazir/C.O.C., as Receiver/Administrator, restraining the elected Managing Committee from running the affairs of the Society, directing him to scrutinize the record and conduct fresh elections within 120 days. It was argued that the order was passed ex parte and without notice or opportunity of hearing to the petitioner, and that no such interim direction was reflected in the initial order-sheet, which merely directed issuance of summons/notices. Counsel maintained that Respondent No.4 nevertheless acted upon the alleged order on 11.07.2026, sealed the Society's office, took possession of its records and effectively displaced the duly elected Managing Committee. He further questioned the authenticity and chronology of the suit proceedings, pointing out discrepancies between the court record, diary sheets and the official website, and alleged that the proceedings had been manipulated to facilitate an unlawful takeover of the Society. Learned counsel contended that the impugned order was legally unsustainable as the Society's election had already been conducted under the express supervision and directions of this Court, and the elected Managing Committee had assumed charge. The subsequent order, therefore, could not lawfully supersede or nullify the earlier orders of this Court. He submitted that the impugned action was in violation of Articles 10-A and 201 of the Constitution, the principles of natural justice, and the statutory framework governing cooperative societies. He also emphasized that several plaintiffs in Suit No.3345/2026 were allegedly not genuine members of the Society and that their documents relating to plots were disputed, forged or fabricated. According to counsel, the suit itself was therefore misconceived and plaint is liable to be rejected under Order VII Rule 11 CPC. Finally, learned counsel prayed that the order dated 13.05.2026 and all consequential actions of Respondent No.4 be declared illegal and without lawful authority; that the Society's office be immediately unlocked and its charge, records and documents restored to the elected Managing Committee; that Suit No.3345/2026 be dismissed; and that an appropriate inquiry be ordered against Respondent No.4 for

his alleged illegal and fraudulent conduct in taking over the affairs and records of the Society. He prayed to allow this petition.

3. Learned counsel for Respondent No.3 submitted that the Constitutional Petition is misconceived and not maintainable before this Court under Article 199 of the Constitution, as the same is based on forged documents and petitioner, having already invoked the jurisdiction of the learned Special Court by filing an application under Order XXXIX Rule 4 CPC, written statement and other applications, cannot bypass the pending proceedings and invoke Article 199 of the Constitution to challenge an interlocutory order in the manner of an appellate remedy. It was contended that no jurisdictional defect, coram non judice proceedings, patent illegality or infringement of any fundamental right has been established. It is prayed that the petition is liable to be dismissed which is an attempt to stall the pending civil proceedings.

4. Learned counsel for Respondent Nos. 3(i) to 3(vi) submitted that the Constitution Petition is misconceived, premature and liable to be dismissed in limine, as the petitioner has failed to establish any jurisdictional defect, violation of a fundamental right or other exceptional circumstance warranting interference under Article 199 of the Constitution. It was contended that the petitioner had already invoked the jurisdiction of the learned Special Court by filing applications under Order XXXIX Rule 4 CPC, a written statement and other miscellaneous applications and, having submitted to the jurisdiction of the trial Court, cannot seek to convert the constitutional jurisdiction of this Court into an appellate forum against an interlocutory order. It is added that the controversy essentially involves disputed questions of fact relating to membership, allotments, voters' lists, eligibility of members, duplicate and disputed allotments, alleged inclusion of deceased or ineligible persons and compliance with the Society's bye-laws and the Sindh Cooperative Societies Act, 2020 and Rules, which can only properly be determined upon production of original record and appreciation of evidence. Learned counsel further submitted that Suit No.3345/2026 was instituted by bona fide members and lawful allottees not to nullify or overreach the orders passed by this Court in C.P. No. D-5705/2022 and C.P. No. D-1407/2024, but to ensure their implementation in accordance with law. It was argued that despite the observations and directions of this Court, a lawful and scrutinized voters' list was not prepared, genuine members were excluded, objections were ignored, commercial plot holders and other allegedly ineligible persons were allowed to vote, deceased persons remained on the electoral roll, and duplicate or disputed allotments were not properly examined. These matters, according to counsel, are substantive civil disputes falling within the jurisdiction of the learned Special Court and cannot appropriately be adjudicated in constitutional proceedings. Counsel also argued that the learned trial Court had not finally adjudicated the

rights of the parties or declared the elections void; rather, the impugned order was an interim protective measure intended to preserve the Society's record and facilitate verification of its membership pending final adjudication. The petitioner's prayer for rejection of the plaint under Order VII Rule 11 CPC was therefore stated to be misconceived, as the competent trial Court is seized of the suit and is empowered to determine such matters in accordance with law. It was further submitted that the allegations of forgery, fabrication, collusion, manipulation of judicial record and misconduct against Respondent No.3, the Nazir and judicial officers were baseless, unsupported by any finding of a competent Court and could not be determined merely based on allegations in a constitutional petition. Lastly, learned counsel submitted that the petitioner had failed to demonstrate any patent illegality, coram non judice proceedings or infringement of any fundamental right and was merely attempting to stall the pending civil proceedings and avoid adjudication of disputed factual matters through evidence. The petition is therefore prayed to be dismissed as premature, misconceived and an abuse of the constitutional jurisdiction of this Court, with costs.

5. We have heard the learned counsel for the parties and examined the record in the light of the judgment of the Federal Constitutional Court in *Sindh Secretariat Cooperative Housing Society Ltd. & others v. Province of Sindh & others*, F.C.P.L.A. No.73-K of 2026, decided on 16.06.2026.

6. The controversy raised by the petitioner relates essentially to the validity of the Society's election, voters' list, membership, disputed allotments, custody of records and management of the Society, which are matters falling within the statutory jurisdiction of the Cooperative/Special Court under the Sindh Cooperative Societies Act, 2020 and the Rules framed thereunder.

7. The allegations of forged documents, manipulation of record, illegal allotments and irregularities are disputed questions of fact requiring examination of evidence and cannot ordinarily be determined in constitutional jurisdiction. The mere fact that elections were previously held pursuant to orders of this Court does not preclude their statutory scrutiny where their legality and the underlying membership record are subsequently disputed and the petitioner can agitate all his points before the competent Court where *lis* is pending.

8. Likewise, the allegations against Respondent No.4 and the prayer for rejection of the plaint under Order VII Rule 11 CPC do not establish any patent lack of jurisdiction, coram non judice proceedings, mala fide or violation of natural justice warranting interference under Article 199 of the constitution.

9. In view of the binding principles laid down by the Federal Constitutional Court, the present petition cannot be used as a substitute for the statutory remedy or as an appellate forum against an interlocutory order of the learned Special Court.

10. Consequently, the Constitutional Petition alongwith listed / pending applications is dismissed as not maintainable under Article 199 of the Constitution, premature and misconceived, with liberty to the petitioner to agitate all its grievances before the competent Special/Cooperative Court in accordance with law and just upon approach, the same shall be entertained, and a decision shall be made in accordance with law by hearing all concerned within a reasonable time. There shall be no order as to costs.

JUDGE

JUDGE

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