

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-5863 / 2026
(Nazeer Ahmed Ujjan Vs. Government of Sindh & Others)

Present:

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing and order:- 25.08.2026.

Mr. Abbadul Husnain, Advocate for Petitioner.
Mr. Abdul Jalil Zubedi, Assistant Advocate General Sindh.

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

- “1. *Direct the Respondents upon their adamant attitude of not performing their statutory obligation to forthwith execute the mutation entry in favour of the Petitioner in respect of House No. A-1569, Sub-Sector 8-C.I, Phase-I, Gulshan-e-Hadeed Steel Town, Bin Qasim Town, Karachi.*
2. *Declare that on the basis of judicial record and documents annexed petitioner is entitled for the mutation in his name as absolute owner of the premises House No. A-1569, Sub-Sector 8-C.I, Phase-I, Gulshan-e-Hadeed Steel Town, Bin Qasim Town, Karachi. On the basis of judicial record which cannot be denied by the Respondents in absence of any proof*
3. *Declare that Respondents' refusal constitutes complete failure to discharge their professional obligation and wilful disobedience, contempt of court, and violation of the Petitioner's fundamental rights.*
4. *Initiate contempt proceedings against the Respondents under Article 204 of the Constitution and Section 3 of the Contempt of Court Ordinance, 2003.*
5. *Issue coercive directions to ensure compliance, including attachment of salaries or personal liability of delinquent officers.*
6. *This Honorable court may further be pleased to direct the execution of supreme court judgements referred in the petition for enforcement of fundamental rights of petitioners as this Honourable court has to get the orders and judgments of supreme court enforced in letter and spirit.”*

2. The petitioner, claiming to be the son and legal heir of deceased Nawab Ali Ujjan, states that after his father's death on 12.12.2023, the estate, including House No. A-1569, Gulshan-e-Hadeed, Karachi, devolved upon the legal heirs. Succession proceedings were completed, the property was mutated in the names of all legal heirs, and the heirs subsequently executed a family settlement and gave their no-objection/authority in favour of the petitioner. The petitioner further states that this Court, in MA No.46 of 2025 dated 09.05.2025, allowed his request concerning the property. He added that despite the said order, repeated applications and legal notices, the revenue authorities failed to mutate the property in his favour. The petitioner therefore alleges deliberate inaction, violation of the Court's

mandate, and infringement of his rights under Articles 23 and 24 of the Constitution. Accordingly, the petitioner has invoked the constitutional jurisdiction of this Court seeking directions to the respondents to execute the mutation in his favour, declare his entitlement to the property.

3. The Respondent No.5 filed comments and submitted that the Petitioner sought mutation of two properties, House No. A-1569 measuring 120 sq. yards and House No. B-166 measuring 243 sq. yards at Gulshan-e-Hadeed, on the basis of the registered sale deeds, succession documents and subsequent court orders. He stated that as per revenue record the properties were duly mutated in favour of the legal heirs of the deceased, including the Petitioner, and the share of deceased sister Sanam Nawab was subsequently transferred to her legal heirs. He added that when the Petitioner sought mutation exclusively in his own favour on the basis of a family settlement and this Court's order dated 09.05.2025, he was required to comply with Section 17 of the Registration Act, 1908, as the document affecting rights in immovable property was compulsorily registrable. Thus, he maintained that the official record had already been updated in accordance with law and, seeking dismissal of the petition.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. The controversy essentially relates to the petitioner's request for mutation of House No. A-1569, Gulshan-e-Hadeed, exclusively in his favour on the basis of a family settlement and the order dated 09.05.2025 passed in M.A. No.46 of 2025. It is not disputed that, following the death of the petitioner's father, the property devolved upon the legal heirs and was duly mutated in their respective names. The petitioner thereafter relies upon the family settlement/no-objection executed by the other heirs for transferring the property exclusively in his name and that settlement needs to be brought on record under the Revenue Law through registered deed if the other legal heirs have relinquished their rights in favour of the petitioner.

6. However, mutation is a fiscal/revenue entry and does not by itself create or extinguish title. Where the subsequent transaction or family settlement purports to create, declare, assign, limit or extinguish any right, title or interest in immovable property, the requirements of the Registration Act, 1908, particularly Section 17, must be complied with where the instrument falls within the class of compulsorily registrable documents.

7. A constitutional petition under Article 199 cannot ordinarily be employed to bypass a statutory requirement of registration or to obtain a declaration of title

where such transfer of proprietary rights is itself dependent upon an instrument whose legal efficacy is yet to be established in accordance with law, if produced before the Revenue Officer for mutation, such legal requirements must be fulfilled.

8. The order dated 09.05.2025 relied upon by the petitioner must also be read in its proper legal context. Unless the said order itself finally adjudicated and transferred title in the property in favour of the petitioner, it cannot be construed as dispensing with mandatory statutory requirements governing transfer and registration of immovable property. Likewise, the family settlement or no-objection of the other legal heirs cannot, merely by virtue of such consent, authorize the revenue authorities to make an exclusive mutation if the underlying instrument requires registration or compliance with any other mandatory legal formality, which has been called upon by the revenue officer.

9. The constitutional jurisdiction of this Court under Article 199 is discretionary and is exercised to enforce legal and fundamental rights where a clear legal duty has been unlawfully omitted. It is not intended to substitute the statutory procedure prescribed for registration, determination of title or adjudication of disputed proprietary rights. Articles 23 and 24 of the Constitution protect lawful property rights, but such protection operates subject to law and does not confer a right to obtain mutation contrary to the mandatory requirements of the Registration Act, 1908 or other applicable law.

10. In the circumstances, the petitioner has failed to establish that the respondents committed any unlawful refusal or wilful disobedience of a binding direction of this Court. Rather, the record indicates that the property already stands mutated in favour of the lawful legal heirs and that the petitioner's subsequent request for exclusive mutation is founded upon a family settlement/document which, according to the respondents, requires compliance with Section 17 of the Registration Act, 1908. Such an objection cannot, *prima facie*, be termed arbitrary, *mala fide* or unconstitutional, as proposed by the petitioner.

11. Consequently, no case for issuance of a writ of mandamus, declaration of exclusive ownership, or initiation of contempt proceedings under Article 204 of the Constitution and the Contempt of Court Ordinance, 2003 is made out. Contempt jurisdiction cannot be invoked merely because an administrative authority has declined to act in the manner desired by a petitioner, particularly where the authority has acted upon a *bona fide* interpretation of a statutory requirement and there is no clear, willful and deliberate violation of an unambiguous judicial command.

12. Accordingly, the petition, is disposed of with understanding that the petitioner shall remain at liberty to have the family settlement/transfer instrument duly registered and to approach the competent revenue authority thereafter, whereupon his application for mutation shall be considered strictly in accordance with law.

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Shahzad Soomro