

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-2878 / 2026
(Abdul Wadood Vs. Province of Sindh & Others)

Present:

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

Date of hearing and order: 31.08.2026.

Mr. Riaz Ahmed Bhatti, Advocate for Petitioner.
Mr. Zohaib Sarki, Additional Advocate General Sindh.
Mr. Abdul Jalil Zubedi, Assistant Advocate General Sindh.
Inspector Javed Ahmed P.S. Zaman Town.

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

- “i. *Declare that the actions undertaken by the Assistant Commissioner, Sub-Division Model Colony, District Korangi Karachi, the Respondent No.4, hereinabove, himself or on the orders of the Respondents No. 1 to 3, against the shop of the Petitioner are arbitrary, mala fide, unconstitutional and violative of Articles, 4, 10-A, 18, 23, 24 & 25 of the Constitution of Islamic Republic of Pakistan 1973.*
- ii. *Declare that the sealing of the cloth shop of the Petitioner bearing shop No.4, area 10/10, Sq. Yds, on plot bearing No.37, situated at Model Colony, District Korangi, Karachi, by way of impugned order is unlawful, without jurisdiction and of no legal effect having been carried out without statutory authority, without notice and in violation of fundamental rights, as such, is liable to be set-aside by this Honorable Court.*
- iii. *Suspend the operation, effect and implementation of impugned order passed by the Respondent No.4, regarding sealing the aforementioned shop of the Petitioner and to allow the Petitioner to open and to carry on his said cloth business temporarily till disposal of this instant petition.”*

2. The petitioner, Abdul Wadood, has filed this Constitutional Petition under Article 199 of the Constitution challenging the sealing of his shop bearing No. 4, measuring 10/10 square yards, situated on Plot No. 37, Model Colony, District Korangi, Karachi, where he has been running his cloth business under the name and style of “Tawakkal Cloth House” since 2006. He asserts that he is a Pakistani citizen and has been residing at the said address with his family for about 40 years.

3. The petitioner’s counsel states that on 17.02.2026, the Assistant Commissioner, Model Colony, along with subordinate staff and police officials, suddenly visited the shop and sealed it without issuing any notice, assigning any reason, or providing him an opportunity of hearing. Upon approaching the Assistant Commissioner, the petitioner was allegedly informed that the shop had been sealed on the directions of higher authorities. Thereafter, the petitioner approached the

Deputy Commissioner, who allegedly stated that the shop had been sealed on the ground that the petitioner was an Afghan national. The petitioner denied the allegation and produced his CNIC, FRC, Union Council certificate, lease documents and affidavits of local witnesses in support of his Pakistani nationality and lawful possession of the shop. Despite submission of the documents, no order for de-sealing was passed. The petitioner's counsel contends that the sealing of his shop without notice or hearing is arbitrary, unlawful, without lawful authority and violative of Articles 4, 10-A, 18, 23, 24 and 25 of the Constitution. He further asserts that the closure of the shop has suspended his business and caused financial loss, including damage to the cloth lying therein, particularly during the Eid shopping season. He therefore seeks declaration that the impugned action is illegal and unconstitutional, setting aside of the sealing order, and temporary de-sealing of the shop to enable him to resume his business.

4. The learned AAG, without filling comments, while opposing the petition, submitted that the Petitioner has attempted to portray the sealing of the subject property as an arbitrary and unlawful act, whereas the matter had been dealt with by the competent authority in accordance with the prevailing national policy concerning properties unlawfully acquired, held or transferred in favour of foreign nationals, particularly Afghan nationals, in violation of the applicable laws, including the Foreigners Act in terms of letter dated 08.03.2026. It was contended that the competent authority, after scrutiny and verification of the relevant record, had identified and prepared a list of properties acquired or held by Afghan nationals in violation of the law, and the subject property fell within the scope of such proceedings. The learned AAG further submitted that the action of the Respondents was not based upon any personal dispute with the Petitioner, nor was it taken arbitrarily or for any collateral purpose, rather, the impugned action formed part of a broader governmental policy and administrative exercise concerning illegal acquisition and occupation of properties by foreign nationals, undertaken in the larger national and public interest. The Petitioner, therefore, cannot seek to defeat or obstruct such policy merely by asserting private ownership, particularly when the competent authority has placed the subject property within the identified category requiring verification and appropriate action under the law. It was further argued that the constitutional jurisdiction under Article 199 of the Constitution is discretionary and cannot ordinarily be invoked to frustrate or interfere with measures taken by the competent authorities pursuant to a national policy relating to foreigners, immigration, security and properties acquired in violation of law. He added that questions relating to the nationality/status of the persons through whom the property was originally acquired, the legality of the transaction, and compliance with the Foreigners Act involve factual and legal determination by the competent

authority / Civil Court and cannot be conclusively adjudicated under Article 199 of the Constitution merely on the basis of the Petitioner's assertions in constitutional proceedings. The learned AAG maintained that the Petitioner's reliance upon Articles 4, 10-A, 18, 23, 24 and 25 of the Constitution does not confer an absolute or unfettered right to retain or enjoy property where its acquisition or holding is contrary to law. He submitted that the right to property under Articles 23 and 24 remains subject to law, and a person cannot claim constitutional protection for an interest which is itself under lawful scrutiny by the competent authority. He next argued that Article 18 does not protect a business being conducted from premises whose legal status is the subject of proceedings under the applicable law and policy. As regards the allegation of denial of hearing, the learned AAG submitted that the Petitioner cannot seek an immediate declaration of ownership and de-sealing merely by relying upon the fact that the sealing notice did not contain detailed reasons. He submits that the sealing was a consequential administrative measure taken pursuant to the competent authority's determination and the identified list of properties requiring action. He pointed out that the Petitioner, if claiming a lawful and independent title, must establish the same before the competent forum / civil court and cannot obtain a blanket order from this Court under Article 199 of the Constitution which may effectively nullify the governmental exercise undertaken pursuant to national policy. The learned AAG also distinguished the judgment/order relied upon by the Petitioner by submitting that each case has to be examined on its own facts and record. Any order passed in another petition, particularly where the Respondents subsequently did not oppose de-sealing, cannot be treated as a precedent requiring automatic de-sealing of every property identified under the present governmental exercise. He emphasized that the competent authority in the instant matter has already sorted out the matter and identified the properties connected with Afghan nationals, and the present case falls within that administrative and policy framework as informed by concerned AC/DC. It was, therefore, contended that the Petitioner has failed to demonstrate that the impugned action was wholly without jurisdiction or actuated by mala fide. In the absence of any established violation of law, this Court may be slow to interfere with measures taken by the competent authorities in implementation of a national policy concerning foreign nationals and properties acquired in violation of the Foreigners Act and other applicable laws. The learned AAG accordingly prayed that the Constitutional Petition, being misconceived and devoid of merit is liable to be dismissed.

5. We have heard the learned counsel for the parties and examined the record with their assistance.

6. We have been informed that the impugned sealing was undertaken in the backdrop of a national policy and government of Sindh's exercise aimed at identifying, securing and taking lawful action in respect of properties allegedly acquired, held or transferred in favour of foreign nationals, particularly Afghan nationals, in violation of the applicable law / policy decision. Such policy, relating as it does to immigration, national security, foreign nationals and the legality of acquisition of property, cannot be lightly interfered with in constitutional jurisdiction, until and unless the petitioner demonstrates that his fundamental rights have been infringed being citizen of Pakistan. However, in the present case, the learned AAG has disputed such claim of the petitioner, if this is the stance of the parties such dispute needs to be resolved by the competent authority and / or Court of plenary jurisdiction at the first instance.

7. At the same time, the existence of a national policy does not confer an unqualified authority upon an executive officer to permanently deprive a citizen of his property without lawful authority or due process. Articles 4, 10-A, 23 and 24 of the Constitution require that any adverse action affecting a person's property and proprietary rights must have lawful sanction and must be taken in accordance with the prescribed procedure. The mere inclusion of the subject property in an administrative list as pointed out, without disclosure of the legal basis, material or proceedings pursuant to which the property was identified under the national policy cannot by itself conclusively establish that the Petitioner's title is sketchy. However, the competent forum / civil Court can determine such claim, if approached upon, therefore, this Court cannot interfere in such policy matters under Article 199 of the Constitution.

8. We have been informed that the competent authority has initiated proceedings pursuant to a bona fide national policy and the decision of the Government of Sindh and the Petitioner's title or the circumstances in which the property was acquired are themselves required to be verified, in such circumstances this Court would be slow in exercising its discretionary constitutional jurisdiction so as to prematurely nullify the governmental process, in such circumstances, the competent authority needs to examine the Petitioner's claim of Pakistani citizenship, registered title, mutation and possession, affords him a meaningful opportunity of hearing, supplies or identifies the legal basis of the action, and thereafter passes a reasoned and speaking order in accordance with law, keeping in view the policy decision, as discussed supra.

9. Thus, while the national policy concerning properties held or acquired by foreign nationals is entitled to due deference, its implementation must remain within the confines of the Constitution and the law. This Court could neither

obstruct a legitimate governmental exercise undertaken in the national and public interest nor permit executive action to operate beyond lawful authority. Consequently, rather than declaring the sealing void solely on the basis of the Petitioner's assertions, in such circumstances, judicial propriety demands that directions needs to be issued to the competent authority/commissioner Karachi to examine and decide the Petitioner's claim strictly in accordance with law, after providing him an opportunity of hearing, within three weeks. The competent authority shall also disclose the legal basis and material relied upon for treating the subject property as falling within the category of properties held by Afghan Nationals in lieu of policy decision by both Federal and Provincial Government with cogent reasons. Any further action against the property shall thereafter be taken only in accordance with law; and if the decision is made, the legality of that decision could be assigned by the aggrieved party before the Court having plenary jurisdiction.

10. Accordingly, the petition is disposed of in the above terms, without prejudice to the Petitioner's title and other lawful rights, if any, and without obstructing the Respondents from implementing the national policy in accordance with law.

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Shahzad Soomro