

THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Zulfiqar Ali Sangi

C.P. No. S – S-1471 of 2025

[M/s. ABM INVESTMENT vs. Civil Aviation Club & another]

Petitioner : M/s. ABM INVESTMENT Through its
Special Attorney Ahmed Hussain Rabia
through M/s. Syed Ehsan Raza and
Muhammad Farooq Khan, Advocates.

Respondents : Civil Aviation Club Through its
President & Secretary
through Mr. Muhammad Suhail Zafar
Bhatti, Advocate.

The State : Mr. Muhammad Ahmed, DAG

Date of hearing : 22.10.2026

Date of decision : 22.10.2026

ORDER

Zulfiqar Ali Sangi J.- Through the instant Constitution Petition, filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner has called into question the legality and propriety of the order dated 22.10.2025, passed by the learned District Judge, Malir, Karachi, in Civil Revision Application No.03/2025, whereby the revision application preferred by the petitioner was dismissed and the order dated 16.10.2024, passed by the learned IVth Senior Civil Judge, Malir, Karachi, in Civil Suit No.1039/2023, was maintained. Through the latter order, an application filed by the respondents under Section 10 read with Section 151 of the Code of Civil Procedure, 1908 ("C.P.C."), was allowed and the proceedings in the aforesaid suit were stayed sine die pending adjudication of Civil Suit No.1920/2020, which was subsequently transferred to the Court of the learned IVth Senior Civil Judge, Malir, Karachi, and renumbered as Civil Suit No.1707/2025.

2. The facts, in brief, are that the petitioner instituted Civil Suit No.1039/2023 against the respondents, seeking, inter alia, a declaration in respect of the alleged breach of the terms and conditions of an

advance-booking arrangement dated 21.02.2019, recovery of an advance amount of Rs.18,000,000/-, interest thereon, damages amounting to Rs.4,500,000/-, return of inventory items allegedly valued at Rs.35,000,000/-, and other consequential reliefs. The petitioner's case is that the aforesaid amount was paid pursuant to an arrangement for booking approximately 400 events at the Grand Ballroom Marquee of the Civil Aviation Club. It is further asserted that, following subsequent developments and the frustration of the proposed bookings, the respondents failed to refund the advance amount or return the inventory items claimed by the petitioner.

3. During the pendency of the suit, the respondents filed an application under Section 10 read with Section 151, C.P.C., contending that Civil Suit No.1920/2020, instituted by Dr. Noshaba Faisal and another, was already pending before a competent Court and involved the same contractual transaction, the same advance amount, substantially overlapping claims, and the same defendants. It was pleaded that continuation of both proceedings would expose the parties to the risk of conflicting judgments and decrees. The application was opposed by the petitioner, principally on the ground that it was neither a party to the previously instituted suit nor claiming through the plaintiffs thereof, and that the payment in question had been made from its own account. The learned trial Court, however, allowed the application vide order dated 16.10.2024. The petitioner's challenge to the said order through Civil Revision Application No.03/2025 was dismissed by the learned District Judge, Malir, Karachi, vide order dated 22.10.2025. Hence, the instant Constitution Petition.

4. Learned counsel for the petitioner contends that the impugned orders have been passed in disregard of the mandatory requirements of Section 10, C.P.C. It is argued that the petitioner is an independent legal and commercial entity whose claim arises from its own contractual arrangement and the payment made thereunder. It is further submitted that the petitioner is neither a party to Civil Suit No.1920/2020 nor has any relationship of partnership, agency, assignment, succession, or other legally recognized representation been established between the

petitioner and the plaintiffs of the said suit. According to learned counsel, mere similarity of subject matter, commonality of defendants, or the possibility of overlapping findings does not satisfy the statutory requirement that the suits must be between the same parties, or parties claiming under them, and litigating under the same title. It is maintained that the petitioner's independent claim for recovery of the advance amount and return of its inventory cannot lawfully be kept in abeyance indefinitely on the basis of proceedings instituted by third parties. Learned counsel, therefore, seeks setting aside of the impugned orders.

5. Conversely, learned counsel for the respondents, assisted by the learned Deputy Attorney General, supports the impugned orders and submits that both suits arise from the arrangement dated 21.02.2019 and concern substantially the same contractual obligations, the advance amount of Rs.18,000,000/-, and the alleged failure of the respondents to honour the arrangement. It is further contended that the plaint in the previously instituted suit contains specific assertions regarding a joint venture and alleges that the amount in question was deposited by the petitioner on behalf of the plaintiffs therein. According to learned counsel, adjudication of the respective claims in separate proceedings may result in inconsistent findings and decrees concerning entitlement to the same amount and the liabilities arising from the same transaction. On these grounds, dismissal of the petition is sought.

6. I have heard learned counsel for the parties and examined the available record, including the impugned orders. The principal question requiring determination is whether, in the facts and circumstances of the case, the subordinate Courts committed any illegality, jurisdictional defect, or material irregularity warranting interference by this Court in its constitutional jurisdiction under Article 199 of the Constitution.

7. Before advertng to the merits of the controversy, it would be appropriate to refer to the scope and applicability of Section 10, C.P.C. The provision prohibits a Court from proceeding with the trial of a suit in which the matter in issue is also directly and substantially in issue in

a previously instituted suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, where such earlier suit is pending before a Court competent to grant the relief claimed. The underlying object of the provision is to prevent simultaneous trials of substantially identical disputes and to avoid the possibility of conflicting adjudications. However, the mere existence of common facts, similarity of transactions, or overlap in the reliefs claimed does not, by itself, attract the bar contemplated by Section 10, C.P.C. The statutory conditions must be independently examined in the light of the pleadings, the nature of the rights asserted, and the relationship, if any, between the parties to the respective proceedings.

8. In the present case, the record reflects that both suits arise from the arrangement dated 21.02.2019 concerning bookings at the Grand Ballroom Marquee of the Civil Aviation Club. The petitioner seeks recovery of the advance amount of Rs.18,000,000/-, together with damages and other consequential reliefs, whereas the plaintiffs in the previously instituted suit are also stated to have advanced claims concerning the same amount and the underlying contractual transaction. While allowing the application under Section 10, C.P.C., the learned trial Court placed reliance upon the assertions contained in the plaint of Civil Suit No.1920/2020 regarding the alleged joint venture and the contention that the amount had been deposited by the petitioner on behalf of the plaintiffs therein. The learned revisional Court, upon examining the matter, likewise found the disputes to be sufficiently interconnected to warrant maintenance of the stay.

9. The principal objection raised by the petitioner concerns the distinct identity of the plaintiffs in the two suits and the absence of any established legal relationship between the petitioner and the plaintiffs of the previously instituted suit. The objection is not without significance, as the requirement concerning the identity of parties, or persons claiming under them, constitutes an express statutory condition for the applicability of Section 10, C.P.C. The expression "*litigating under the same title*" cannot be construed so broadly as to dispense with the requirement of examining whether the parties derive their respective claims through the same

persons or assert rights in a legally recognized representative capacity. Conversely, the petitioner's assertion that its claim is entirely independent cannot be accepted as conclusive merely on the basis of its own pleadings, particularly when the respondents rely upon the averments contained in the earlier suit to establish an alleged connection between the respective claims.

10. Accordingly, the controversy cannot be resolved merely by comparing the names of the plaintiffs in the two suits. The material consideration is whether the petitioner asserts an independent legal entitlement arising from its own contractual relationship with the respondents or whether its claim is connected with, or derived through, the same persons or arrangement in a manner attracting the statutory requirements of Section 10, C.P.C. The subordinate Courts have proceeded on the basis that the claims are interconnected and that their simultaneous adjudication may result in inconsistent findings concerning the entitlement to the advance amount. Upon examination of the material placed before this Court, the petitioner has not demonstrated any patent jurisdictional defect or material illegality in the revisional Court's exercise of jurisdiction warranting interference under Article 199 of the Constitution.

11. It is also pertinent to observe that Section 151, C.P.C., preserves the inherent powers of a Court to pass such orders as may be necessary for the ends of justice or to prevent abuse of its process. Such inherent jurisdiction, however, cannot be exercised in a manner that overrides an express statutory provision or renders its requirements redundant. The possibility of conflicting judgments, standing alone, does not invariably furnish sufficient justification for staying proceedings indefinitely, particularly where the statutory requirements of Section 10, C.P.C., remain to be satisfied. The exercise of inherent powers must be founded upon the circumstances of the particular case and must remain directed towards securing the ends of justice and preventing abuse of the process of the Court. In the instant matter, the subordinate Courts have relied upon the overlapping claims and the assertions concerning the alleged common contractual arrangement while arriving at their respective conclusions.

12. The record further reveals that Civil Suit No.1920/2020 has since been transferred to the Court of the learned IVth Senior Civil Judge, Malir, Karachi, and renumbered as Civil Suit No.1707/2025. Such transfer and renumbering

do not, in themselves, extinguish the pendency of the previously instituted suit or render the proceedings therein irrelevant to the controversy. Nevertheless, the Court seized of the matter is expected to ensure that the stay remains confined to the extent legally justified and does not operate so as to prejudice any independent rights of the petitioner, should such rights be established in accordance with law. It is equally well settled that the constitutional jurisdiction of this Court is not intended to substitute a fresh appellate examination for the decision of a competent revisional Court. Interference is warranted where the impugned order suffers from a jurisdictional defect, material illegality, failure to exercise jurisdiction vested by law, or an arbitrary exercise of judicial discretion resulting in manifest injustice. Having considered the impugned orders in the context of the pleadings and the rival submissions, I am not persuaded that the petitioner has made out a sufficient case for interference under Article 199 of the Constitution.

13. For the foregoing reasons, the instant Constitution Petition is **dismissed**. Consequently, the orders dated 16.10.2024, passed by the learned IVth Senior Civil Judge, Malir, Karachi, in Civil Suit No.1039/2023, and dated 22.10.2025, passed by the learned District Judge, Malir, Karachi, in Civil Revision Application No.03/2025, are maintained.

14. It is, however, clarified that the observations made herein are confined to the controversy relating to the stay of proceedings and shall not be construed as an expression of opinion on the merits of the respective claims, the entitlement to the advance amount, or the ownership and return of the disputed inventory items. The competent Court shall adjudicate the respective rights and liabilities of the parties strictly in accordance with law, on the basis of the pleadings and evidence legally brought on record.

15. There shall be no order as to costs.

JUDGE