

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-6317 of 2025
(M/s Inchauli Cooperative Housing Society versus Tanveer Islam & others)

Date	Order with signature of Judge
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Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Abdul Mobeen Lakho

Date of hearing and order: 22.1.2026

Mr. Faiz Durrani advocate for the petitioner
M/s. Farooq Iftikhar Goraho & Rafeo Fazal advocates for Respondents No.1 to 68.
Mr. Shariq Mubashir, Assistant AG

O R D E R

Adnan-ul-Karim Memon, J. The petitioner has filed the captioned Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- a. *Declare that the impugned order dated 17.12.2025 are illegal, unlawful, void and against the principle of natural justice.*
- b. *Set aside the impugned order dated 17.12.2025 passed by the Vth Senior Civil Judge Karachi West and further to suspend the impugned order dated 17.12.2025 being lawful.*
- c. *Prayed that any interim or ad-interim relief granted in favour of petitioner and respondents/plaintiffs be recalled along with all consequential directions , including the appointment of Nazir, and restore the status quo ante.*

2. Learned counsel for the Petitioner submits that the impugned order dated 17.12.2025, passed by the learned V-th Senior Civil Judge, Karachi-West in Suit No. 7153 of 2025, whereby applications under Order XXXIX Rules 1 & 2 and Order XL CPC were allowed and a Nazir was appointed to take over the affairs and conduct elections of the Society, is patently illegal, without lawful jurisdiction, and passed without application of judicial mind. The order was passed ex parte, without issuance of notice or affording opportunity of hearing to the duly elected Managing Committee, a necessary and proper party, rendering the proceedings vitiated by non-joinder and violation of the principles of natural justice. It is further submitted that the suit was instituted at the instance of Respondent No.1, a mere alleged attorney, who deliberately failed to implead the Managing Committee. Consequently, the impugned proceedings are coram non judice, void, and without lawful authority. The Petitioner, being the General Secretary of the Society, is directly affected as the order interferes with the lawful governance and administration of the Society. Learned counsel further submits that the election process was already underway pursuant to orders dated 23.10.2025 and 02.05.2025 passed by the Hon'ble High Court of Sindh in C.P. Nos. 4817/2025 and 1557/2025, and Notification No. RCS/KYC/301/2025 dated 03.10.2025, whereby elections were scheduled for 11.01.2026. The Trial Court's

interference has unlawfully disrupted the ongoing electoral process and caused irreparable loss. It is also submitted that the plaintiffs concealed the pendency of identical proceedings before this Court and obtained the impugned order through misrepresentation and suppression of material facts. The Trial Court, in undue haste, admitted the suit and passed a drastic order on the same day, sealing the Society's office and staying elections, in flagrant violation of *audi alteram partem*. Lastly, learned counsel submits that the plaintiffs have no cause of action, as the voters' list was prepared strictly in accordance with the Society's By-Laws, which restrict voting rights to plot-holding members only, a position consistently upheld by this Court, including in CP No. 4454/2019. The impugned order dated 17.12.2025 is therefore illegal, arbitrary, and liable to be set aside, and the Petitioner has no alternate efficacious remedy except to invoke the constitutional jurisdiction of this Court.

3. This Court, vide order dated 1.1.2026, noted the contention of learned counsel for the petitioner that although the impugned order was passed under Order XXXIX Rules 1 & 2 CPC, neither the Cooperative Societies Act nor the Cooperative Societies Rules, 2020 provide any right of appeal. A perusal of Section 116 of the Cooperative Societies Act shows a bar on the jurisdiction of other courts in matters relating to cooperative societies, and neither the Act nor the Rules provides any appellate forum. Notice of this petition was issued to the respondents and the learned Advocate General of Sindh for 22.01.2026. Learned counsel for the petitioner was directed to assist the Court on the next date as to whether the Special Court for Cooperative Societies exercises powers of a Civil Court and whether orders passed under the CPC are appealable. However, till the next date of hearing, parties were directed to maintain the status quo, and no further proceedings shall be conducted.

4. Learned counsel for the private parties put appearance and raised the question of the maintainability of the petition and prayed to dismiss the same.

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

6. In the above-mentioned matter, the Nazir was appointed as the in-charge of the subject society to oversee the election process vide order dated 17-12-2020. In compliance, a letter was issued on 19-12-2020 to the concerned police stations, and necessary action was scheduled. The Nazir first visited Police Station Sachal, where officials were directed to inspect the society office and hand over possession; only basic furniture, including tables and chairs, was found. Thereafter, the Nazir, accompanied by police officials, visited Police Station Samnabad and the society office, where an inventory of office items was

prepared, noting some almirahs containing photocopies of files, with no original records present. Possession of the office was then handed over to senior members appointed by the Honorable Court to assist in the election process. The election process was initiated through notices published in *Daily Nation* (English), *Daily Express Karachi* (Urdu), and *Daily Awami Awaz* (Sindhi) on 24-12-2025, and members were informed to submit their documents by 29-12-2025 for scrutiny and inclusion in the election list. Subsequently, the Nazir was informed that the proceedings had been temporarily stayed by this Court vide order dated 01-01-2026 in the aforesaid petition and accordingly, was restrained from further conducting the society's elections.

7. This being the position of the case, coupled with challenging the impugned order of the learned Special Court which is of interim nature that needs to be fully concluded by the Court as its logical conclusion within reasonable time and just after conclusion, petitioner shall be at liberty to assail the legality of the findings if aggrieved in appropriate proceeding in accordance with law. The Court only directed to maintain the status quo, and no further proceedings shall be conducted/concluded.

8. However, after hearing the parties and perusal of record we deem it appropriate to dispose of the petition, without touching its merits and direct that the election of the society be conducted as directed by the learned trial court within sixty days.

9. This petition along with pending application(s) stands disposed of in the above terms.

JUDGE

JUDGE