

IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

MR. JUSTICE ADNAN-UL-KARIM MEMON.
MR. JUSTICE ZULFIQAR ALI SANGI.

C.P.No.D-2837 of 2017

(Afzal Hussain Versus the Province of Sindh and others)

Date of hearing: 01.04.2026

Date of Decision: 20.04.2026

M/s. Anwar Mansoor Khan, Zeeshan Bashir Khan and Irfan Memon, Advocates for the Petitioner.

Mr. Asad Iftikhar, Advocate for Respondent No.3.

Mr. Mujahid Iqbal, Advocate, Associate of Mr. Abdul Sattar Pirzada, Advocate for Respondent No.8.

Mr. Mushtaq A. Memon, Advocate for Respondents No.9 to 16.

Mr. Muhammad Ashraf Samoo, Advocate for applicants/intervenors.

Mr. Ali Safdar Depar, A.A.G.

JUDGMENT

ZULFIQAR ALI SANGI:- J Through the present judgment, we propose to adjudicate upon the instant Constitution Petition instituted under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. By means of this petition, the Petitioner has impugned the competence and jurisdiction of the Board of Revenue, Sindh, to entertain and proceed with a purported Review Application arising out of Revision Application No. SROR-45/2010, titled *M/s Dadabhoy Housing (Pvt.) Ltd. v. Executive District Officer (Revenue), CDGK & others*. The Petitioner has further challenged the orders dated 02.05.2017 and 04.05.2017, allegedly passed by Respondent No. 2, contending that the same are unlawful, without jurisdiction, coram non judge, and dehors the scheme and provisions of the Sindh Board of Revenue Act, 1957, as well as the Sindh Land Revenue Act, 1967.

2. The Petitioner seeks, inter alia, a declaration that the acts, conduct, and proceedings of the Respondents, particularly Respondents No.1 and 2 and/or any persons acting under, through, or on their behalf, are unlawful, illegal, mala fide, without lawful authority or jurisdiction, and ultra vires the provisions of the Sindh Board of Revenue Act, 1957, the Sindh Land Revenue Act, 1967, as well as Articles 4 and 5 of the Constitution of the Islamic Republic of Pakistan, 1973. It is further prayed that this Court declare that

Respondents No.1 and 2, and/or any persons acting under, though, or on their behalf, lack statutory competence to entertain or adjudicate upon a review petition under Section 163 of the Sindh Land Revenue Act, 1967. It is also sought to be declared that Section 8 of the Sindh Board of Revenue Act, 1957 is subject to, and must be read in conjunction with, Section 7 thereof, as well as Section 179 of the Sindh Land Revenue Act, 1967. Consequently, the Petitioner prays that the Review Application filed by Respondent No.3 bearing No. SROR-45/2010 be permanently suspended. Further, it is prayed that the orders dated 02.05.2017 and 04.05.2017 passed by Respondent No.2 be declared illegal, without lawful authority and jurisdiction, and ultra vires the spirit, scheme, and intent of the governing laws. The Petitioner also seeks issuance of a writ of prohibition restraining Respondents No.1 and 2, and/or any persons acting under, though, or on their behalf, from passing or taking any adverse action against the rights and interests of the Petitioner in respect of land measuring 123 Acres and 31 Ghuntas, forming part of Survey Nos. 80, 81, 82, 88, 89, 90, 127, and 129, situated in Deh Thoming, Tappo Gajhro, Scheme No. 33, Karachi. Additionally, the Petitioner prays for issuance of a writ of prohibition thereby suspending all further proceedings in SROR-45/2010.

3. For proper adjudication of the controversy, it is imperative to set out the factual matrix in some detail. The Petitioner asserts lawful proprietary and possessory rights over a parcel of land measuring 123 Acres and 31 Ghuntas, comprising Survey Nos. 80, 81, 82, 88, 89, 90, 127 and 129, situated in Deh Thoming/Den Thoming, Tappo Gujro, Scheme No. 33, Karachi (hereinafter referred to as “the subject property”), by virtue of a registered Sale Deed dated 28.03.2013. The Petitioner contends that his title is derived from the legal heirs of one Mst. Rahimdini, stated to be the original owner of the subject property. It is the case of the Petitioner that, at the time of institution of the present proceedings, no adverse declaration had been passed by any competent court of law impugning the validity of the registered conveyance in his favour; consequently, his title and possession merit protection in accordance with law. It is further the Petitioner’s case that disputes arose concerning the estate of the late Mst. Rahimdini, particularly in relation to an alleged partition purportedly effected in the year 1989, which, according to the Petitioner, was legally defective and did not accurately reflect the lawful entitlement of the original

owner. The Petitioner avers that Mst. Rahim dini was not duly represented in the said proceedings and that the relevant revenue record did not validly substantiate the purported partition. It is additionally pleaded that the legal heirs of the original owner-initiated proceedings for correction of revenue entries. An appeal preferred on 05.07.2008 led to an inquiry conducted by the Deputy District Officer (Revenue), culminating in a recommendation dated 11.09.2008 in favour of rectification of the revenue record. Subsequently, an order dated 13.09.2009 was passed by the District Officer (Revenue), whereby, as per the Petitioner, the names of the legal heirs of Mst. Rahim dini were incorporated into the revenue record through Foti Khata. The record further indicates that the said order was assailed by Respondent No. 3, namely M/s Dadabhoy Housing (Pvt.) Ltd., by way of an appeal before the Executive District Officer (Revenue), which was dismissed on 17.10.2009. Thereafter, a revision petition was filed before the Board of Revenue, which too met the same fate and was dismissed on 12.03.2013. Subsequently, the matter appears to have been brought before this Court through constitutional petitions on more than one occasion. One such petition was disposed of on 03.03.2010 with a direction to avail the alternate remedy of revision. Thereafter, another petition culminated in a remand order dated 10.03.2016, whereby the Board of Revenue was directed to afford an opportunity of hearing to all concerned parties. Pursuant to the remand, the Board of Revenue once again dismissed the revision petition vide order dated 07.06.2016.

4. The present dispute originates from the institution of a Review Application by Respondent No. 3 before the Board of Revenue. It is the case of the Petitioner that the said review was ostensibly preferred under Section 163 of the Sindh Land Revenue Act, 1967; however, the said provision had, according to the Petitioner, already been omitted by virtue of the Sindh Land Revenue (Amendment) Ordinance, 1980. Consequently, it is contended that no statutory jurisdiction to entertain a review subsisted under the Land Revenue Act, and as such, the Board of Revenue lacked lawful authority to assume or exercise review jurisdiction in the matter. The Petitioner has further alleged mala fide conduct, collusion, and procedural impropriety on the part of the Board of Revenue as well as the private contesting respondents. It is asserted that, notwithstanding a fundamental objection as to the absence of jurisdiction, the Board proceeded to

entertain the review application, reserved its judgment, and subsequently passed orders dated 02.05.2017 and 04.05.2017 without first adjudicating upon its own jurisdictional competence. According to the Petitioner, the proceedings before the Board of Revenue are, in substance, an attempt to disturb a duly registered sale deed and to adjudicate upon questions of title, matters which lie beyond the ambit of revenue authorities and fall exclusively within the jurisdiction of the competent civil court.

5. Upon issuance of notice, Respondent No. 2, namely the Board of Revenue, Sindh, submitted its comments in opposition to the petition. The crux of its defence is that the Board of Revenue constitutes the apex forum within the revenue hierarchy and is duly vested with supervisory, revisional, and review jurisdiction under the Sindh Board of Revenue Act, 1957. It is contended that even if the review application initially invoked an incorrect statutory provision, i.e., Section 163 of the Land Revenue Act, such misdescription is not fatal to the proceedings, as the Board is otherwise empowered under Section 8 of the Sindh Board of Revenue Act, 1957 to review its own orders. Respondent No. 2 has further asserted that the impugned proceedings relate solely to the correction, legality, and maintenance of mutation entries and the record of rights, and do not pertain to the direct cancellation of the Petitioner's registered sale deed. It is submitted that no order was passed by the Board purporting to annul or cancel the sale deed; rather, the Board confined its adjudication to matters concerning revenue entries. The Board further maintains that Section 8 of the Sindh Board of Revenue Act expressly confers upon it the power of review, and as such, the proceedings cannot be deemed to be without jurisdiction merely on account of the initial reference to an incorrect statutory provision.

6. Respondent No. 3, namely M/s Dadabhoy Housing (Pvt.) Ltd., has submitted comprehensive objections to the instant petition. In addition to controverting the merits thereof, Respondent No. 3 has raised various preliminary objections, inter alia, pertaining to maintainability, alleged concealment of material facts, availability of an adequate alternate remedy, existence of disputed questions of fact, applicability of the principle of res judicata, laches, and non-joinder of necessary parties.

It is the categorical stance of Respondent No. 3 that the title claimed by the Petitioner is seriously disputed and is purportedly founded upon a sale deed emanating from a defective and tainted chain of title. It has further been asserted that multiple civil suits concerning the subject matter are presently sub judice before courts of competent jurisdiction, namely:

- a. Suit No. 1010 of 2022
- b. Suit No. 2773 of 2016
- c. Suit No. 1268 of 2019
- d. Suit No. 405 of 2019
- e. Suit No. 2412 of 2021.

It is contended on behalf of Respondent No. 3 that the Petitioner has consciously and deliberately invoked the constitutional jurisdiction of this Court with the ulterior motive of circumventing the ordinary civil remedies available under the law, and to secure a declaration of title, which relief is not amenable to grant within the limited scope of writ jurisdiction. It is further submitted that the review application in question was duly maintainable in law under Section 8 of the Board of Revenue Act, 1957. Learned counsel for Respondent No. 3 has strenuously argued that a plain reading of Section 7 of the said Act clearly stipulates that orders passed by a Member attain finality subject, however, to the provisions of Section 8, thereby unequivocally preserving and recognizing the power of review. It is additionally contended that the Petitioner did not raise any objection before the Board of Revenue at the time when the review application was permitted to be treated as one under Section 8, and, as such, any objection raised at this stage is belated and constitutes a mere afterthought. Respondent No. 3 has also placed reliance upon various judicial pronouncements, including but not limited to 2000 YLR 1901, 2007 SCMR 1256, 2005 CLC 1866, PLD 1977 Karachi 410, 2024 CLC 114, 2013 SCMR 363, and 2006 Quetta 30, in support of the foregoing submissions.

7. Respondent No.17, M/s Al Habib Corporation, has also contested the petition, contending that the controversy in question has already attained finality by virtue of prior judicial pronouncements, including High Court Appeal No.286 of 2002 and Civil Petition Nos.736-K and 738-K of 2003 before the Supreme Court of Pakistan. It

is submitted that the subject land has been conclusively declared as State land, and that the very basis of the Petitioner's claim, including Entry Nos.62 and 63, is vitiated by fraud and fabrication. It is further averred that Respondent No.17 is a bona fide purchaser for valuable consideration in respect of a portion of the land, and that the present petition entails disputed and complex questions of fact which are not amenable to adjudication in the exercise of constitutional jurisdiction.

8. Learned counsel appearing on behalf of the Petitioner advanced elaborate submissions. At the outset, he contended that the very foundation of the impugned proceedings is vitiated on a short yet decisive ground, namely that the review application preferred by Respondent No. 3 was explicitly filed under Section 163 of the Sindh Land Revenue Act, 1967, a provision which admittedly stood repealed/omitted long prior thereto. It was argued that once the statutory provision conferring jurisdiction to entertain a review ceased to exist, any proceedings initiated thereunder are coram non iudice and void ab initio. Emphasizing that the right of review is purely statutory in nature, learned counsel submitted that in the absence of an express enabling provision, no authority can assume such jurisdiction. Secondly, it was contended that Section 8 of the Sindh Board of Revenue Act, 1957 is inapplicable to the present case, as the original proceedings before the Board were not instituted under the said provision. It was further argued that the scheme of the Sindh Land Revenue Act, particularly when read in conjunction with Section 179 thereof, excludes recourse to Section 8 in such circumstances. Learned counsel maintained that Section 8 is subordinate to Section 7 of the Act and must, therefore, be construed restrictively. Thirdly, learned counsel submitted that the Board of Revenue acted wholly without jurisdiction in reopening a matter which had already attained finality following remand and rehearing. He argued that upon passing the order dated 07.06.2016 pursuant to remand by this Court, the Board became functus officio and lacked competence to revisit the matter under the guise of review, particularly by reappraising the entire controversy. Fourthly, it was contended that the Petitioner is vested with rights under a duly registered sale deed dated 28.03.2013, the legal sanctity and effect whereof cannot be negated, either directly or indirectly, by revenue authorities. Learned counsel submitted that even if the Board purported to confine itself to revenue entries, the inevitable consequence of its actions would be to impair the

Petitioner's title, a matter which falls exclusively within the domain of a competent civil court. Fifthly, it was argued that the proceedings before the Board are tainted by mala fides, legal malice, and procedural irregularities. In this regard, learned counsel submitted that the question of jurisdiction was not adjudicated as a preliminary issue; the proceedings were conducted in undue haste; and the matter was heard by an authority not duly seized of the original proceedings. Lastly, learned counsel contended that the present petition raises a pure question of law pertaining to the jurisdiction of a statutory forum, and as such, the existence of disputed questions of fact elsewhere does not impinge upon the maintainability of the instant petition. On the strength of the foregoing submissions, it was prayed that the impugned proceedings and order be declared to be without lawful authority and of no legal effect, and that the Board of Revenue be restrained from undertaking any further coercive measures.

9. Learned counsel appearing on behalf of Respondent No. 3, while adopting the objections already placed on record, contended that the instant petition is wholly misconceived and not maintainable in law. He submitted that the controversy involved is not confined to a mere question of jurisdiction, as sought to be portrayed by the Petitioner; rather, it constitutes, in essence, a complex dispute relating to title, arising from competing chains of title documents, mutation entries, an alleged oral agreement, proceedings initiated under Section 12(2), prior civil litigation, and subsequent transfers in favour of multiple third parties. Such intricate and disputed questions of fact and title, he argued, fall outside the ambit of constitutional jurisdiction and cannot be adjudicated in these proceedings. He further submitted that the Petitioner's claim of title is predicated upon a sale deed purportedly executed by the legal heirs of Mst. Rahim dini through one Zafar Mehmood Ghaznavi, whose earlier litigation had culminated adversely to his interest. In this regard, he made reference to Suit No. 434 of 2001, the compromise decree passed therein, its subsequent setting aside under Section 12(2), dismissal of the appeal in HCA No. 286 of 2002, and the eventual dismissal and/or disposal of proceedings before the Supreme Court of Pakistan. He contended that, upon attaining finality, the said proceedings extinguished any subsisting lawful title in favour of the predecessors-in-interest through whom the Petitioner now claims. On the issue of review jurisdiction, learned counsel submitted that Section 8 of the Sindh Board of Revenue Act,

1957 is clear, explicit, and unambiguous, conferring upon the Board the authority to review any decree or order passed by it on grounds of discovery of new and important evidence, error apparent on the face of the record, or any other sufficient cause. He further referred to Section 7 of the said Act to demonstrate that the finality attached to orders passed by a Member is expressly subject to the provisions of Section 8. Accordingly, he argued that the interpretation advanced by the Petitioner is contrary to the plain language and legislative intent of the statute. He also contended that the Petitioner had participated in the proceedings before the Board and raised no objection when the review application was permitted to be treated as one under Section 8; hence, the present challenge is belated, an afterthought, and devoid of bona fides. In conclusion, learned counsel submitted that the petition is liable to be dismissed on account of disputed questions of fact, availability of an adequate alternate remedy, non-maintainability in constitutional jurisdiction, and absence of bona fide on the part of the Petitioner.

10. Learned counsel appearing on behalf of the Board of Revenue defended the impugned proceedings, contending that the Board, being the apex revenue forum, is vested with both revisional and review jurisdiction under the relevant provisions of the Board of Revenue Act. He submitted that a mere erroneous or mistaken reference to a statutory provision does not vitiate an otherwise lawful exercise of jurisdiction. It was further argued that the Board has not annulled the Petitioner's sale deed but has confined its adjudication to the correction and maintenance of entries in the revenue record. Learned counsel maintained that, insofar as the Petitioner alleges any impairment of title, the appropriate remedy lies before the competent civil court. He asserted that the present petition is an attempt to impede lawful proceedings before the revenue authorities and that no grounds have been established warranting constitutional interference.

11. We have heard the learned counsel for the respective parties and, with their able assistance, have carefully examined the material available on the record.

12. After hearing learned counsel for the respective parties and perusing the available record, the questions arise for determination are that as to whether the Board of Revenue, Sindh, had the requisite

jurisdiction to entertain and adjudicate upon the review application filed by Respondent No. 3? (ii) Whether the impugned orders dated 02.05.2017 and 04.05.2017 are without lawful authority solely on the ground that the review application initially invoked Section 163 of the Sindh Land Revenue Act, 1967? (iii) Whether the instant constitutional petition is maintainable under Article 199 of the Constitution of the Islamic Republic of Pakistan in the presence of disputed questions relating to title, allegations of fraud, correctness of revenue entries, and pendency of civil proceedings? (iv) Whether the Petitioner is entitled to the grant of a writ of prohibition and/or any declaratory relief under the circumstances of the case? And (v) Whether the Board of Revenue Sindh was competent to hear the review application which was time barred?

13. It is a settled principle of law that the power of review is not inherent in any authority and must derive from an express statutory provision. The Petitioner is correct to the extent that, had Section 163 of the Sindh Land Revenue Act, 1967 stood omitted, no review could have been maintained under the said provision. A review application predicated solely upon a repealed or non-existent statutory provision would, therefore, be legally untenable. However, the matter does not conclude at this juncture. The determinative question is not merely the continued existence of Section 163, but whether the Board of Revenue was otherwise vested with the power of review under any other applicable law, particularly Section 8 of the Sindh Board of Revenue Act, 1957. In the event such jurisdiction existed independently, an erroneous reference to Section 163 would not ipso facto vitiate the proceedings, provided that, in substance, the Board exercised jurisdiction referable to Section 8 and the parties were duly afforded notice and an opportunity of being heard.

14. Inasmuch as the controversy primarily hinges upon the construction and interpretation of Sections 7 and 8, it is imperative that both provisions be examined with due care and scrutiny. Section 7 pertains to the revisional jurisdiction of the Board and stipulates, inter alia, that any order made or decree passed by a Member, whether in appeal or revision, shall, subject to the provisions of subsections (2) and (3) thereof and further subject to Section 8, attain finality. Conversely, Section 8 confers upon the Board the power to review its orders. It authorizes any person aggrieved by a decree or order of the

Board, who, by reason of the discovery of new and material evidence, or on account of some error apparent on the face of the record, or for any other sufficient cause, seeks a review, to prefer an application before the Board for such purpose. Upon issuance of notice to the concerned parties and after affording them an opportunity of hearing, the Board is empowered to pass such order or decree as the circumstances of the case may warrant. A plain and unambiguous reading of Section 7 reveals that the finality attached to an order passed by a Member is not absolute, but is expressly made subject to the provisions of Section 8. Consequently, the contention advanced by the Petitioner, to the effect that Section 7 excludes or renders subordinate the operation of Section 8, is devoid of merit and cannot be sustained. The legislative intent, as manifested through clear and unequivocal language, preserves the jurisdiction of review. Further, Section 6(2) assumes significance, inasmuch as it provides that any order made or decree passed by a Member shall be deemed to be an order or decree of the Board itself. This deeming provision fortifies the conclusion that, for the purposes of Section 8, an order passed by a Member is amenable to review by the Board in accordance with the statutory framework. Hence, upon a harmonious and conjoint reading of Sections 6, 7, and 8 of the Sindh Board of Revenue Act, 1957, it becomes manifest that the Board is vested with statutory power to review its orders, including those which, by legal fiction, are treated as orders of the Board passed through a Member.

15. The next question that arises for determination is whether the erroneous reference to Section 163 of the Land Revenue Act is of such a nature as to vitiate the review proceedings. In our considered opinion, the answer is in the negative. It is a well-settled principle of law that where a forum or authority is otherwise vested with jurisdiction under the relevant statutory framework, a mere misquotation of a statutory provision or an incorrect description of the proceedings does not, by itself, render such proceedings void, provided that the substantive jurisdiction exists and no prejudice is occasioned to any party. The superior courts have consistently held that emphasis must be placed on the source and substance of the power exercised, rather than on the nomenclature or label attributed to the proceedings by either the parties or the adjudicating forum. In the present matter, the record referred to by the learned counsel for Respondent No. 3 reflects that an application was duly filed before the Board seeking

correction/amendment of the provision cited in the review application, substituting Section 163 of the Land Revenue Act with Section 8 of the Board of Revenue Act. The order further indicates that no objection was raised by the opposing side in this regard. Even if the Petitioner disputes the legal effect of such amendment, it remains an undeniable fact that the proceedings were thereafter consciously entertained and treated under Section 8. In these circumstances, the Petitioner cannot successfully contend that the absence of jurisdiction under Section 163 permanently precluded the Board from examining whether its power of review could independently be sourced from Section 8 of the relevant statute. Jurisdiction, in such cases, is determined by the governing law and the existence of enabling provisions, and not merely by the caption or initial reference assigned to the proceedings.

16. The Petitioner has contended that upon the Board's issuance of the order dated 07.06.2016, following remand, it became *functus officio* and was thereby precluded from entertaining any subsequent review. This contention is devoid of merit. A forum attains the status of *functus officio* only when it has fully exercised and exhausted its statutory mandate, leaving no residual jurisdiction. However, where the governing statute expressly confers a power of review, the application of the doctrine of *functus officio* remains subject to such statutory provision. In the present case, Section 8 unequivocally vests the Board with the authority to review its own orders. Accordingly, the issuance of the order dated 07.06.2016 did not operate to completely divest the Board of its statutory jurisdiction, provided that the conditions stipulated under Section 8 were duly invoked and examined. The question as to whether the review petition merited acceptance or dismissal on substantive grounds is a separate consideration. Nonetheless, it cannot be asserted that the Board lacked inherent jurisdiction to entertain the review.

17. A substantial portion of the Petitioner's grievance is founded upon the apprehension that the continuation of review proceedings before the Board would effectively result in the cancellation of a registered sale deed and a determination of title. It is an established and undisputed principle of law that a registered sale deed cannot be annulled by a revenue authority, and that questions pertaining to title fall within the exclusive domain of the competent civil courts. It is equally well settled that entries in revenue records neither confer nor

extinguish title, as such records are maintained primarily for fiscal and administrative purposes.

18. Notwithstanding the above, the mere existence of this principle does not, ipso facto, divest revenue authorities of jurisdiction in all related matters. Revenue authorities are duly empowered to examine and adjudicate upon mutation entries, the legality of incorporations in the record of rights, succession entries, and other allied matters falling within the ambit of revenue jurisdiction. Any findings recorded in such proceedings, even if they bear evidentiary or collateral implications, do not amount to a civil decree setting aside or invalidating a registered instrument. In the present case, Respondent No. 2 has categorically asserted that the Board restricted its inquiry to mutation entries, including Entry Nos. 62 and 63, and did not undertake or purport to undertake the cancellation of the Petitioner's registered sale deed. The question as to whether such proceedings may incidentally or indirectly affect the Petitioner's title is a matter requiring adjudication by a competent civil court, and does not, in itself, demonstrate a patent lack of jurisdiction on the part of the revenue authorities.

19. The record placed before this Court discloses a complex matrix of highly disputed questions of fact, inter alia, competing chains of title; the alleged ownership claim of Mst. Rahimdini; the status, validity and legal effect of Entry Nos. 62 and 63; the consequences of prior partition proceedings; the effect of the Foti Khata and subsequent mutation entries; Civil Suit No. 434 of 2001 and the legal implications arising therefrom; allegations of fraud, forgery and collusion; claims advanced by third-party purchasers and developers; the assertion that the subject land vests in the State; and the pendency of multiple civil proceedings in respect of the same property. These issues are neither ancillary nor peripheral; rather, they constitute the very substratum of the present controversy. It is well-settled that jurisdiction under Article 199 of the Constitution is extraordinary and discretionary in nature, primarily invoked to address jurisdictional overreach, manifest illegality, violation of fundamental rights, or actions taken without lawful authority. Such jurisdiction is not designed to substitute the ordinary remedies available before competent civil fora, nor to determine intricate and seriously contested questions of title, allegations of fraud, or the genuineness and authenticity of documents, all of which necessitate

the recording and appreciation of evidence. In circumstances where adjudication entails examination of witnesses, proof and scrutiny of documentary evidence, cross-examination, and a comprehensive inquiry into disputed facts, the appropriate and lawful forum remains the civil court of competent jurisdiction.

20. The Petitioner has sought to characterize the matter as involving a pure question of law pertaining to the jurisdiction of the Board. However, such a legal issue cannot be wholly dissociated from the surrounding factual matrix. Even upon a meticulous scrutiny of the proceedings by this Court, it would remain evident that the controversy concerning proprietary rights is presently sub judice before competent civil courts and is inextricably intertwined with rival claims and prior litigation. In these circumstances, the invocation of constitutional jurisdiction would be unwarranted and inappropriate. It is a settled proposition of law that the mere existence of an alternate remedy does not, in all circumstances, operate as an absolute bar to the exercise of constitutional jurisdiction; however, where such remedy is adequate, efficacious, and has already been invoked, the superior courts ordinarily refrain from exercising writ jurisdiction, save in exceptional circumstances. In the present case, it is an admitted position that multiple civil suits are pending adjudication. Any rights claimed by the Petitioner, arising out of the registered sale deed dated 28.03.2013, can appropriately be asserted and defended within the framework of those proceedings. Likewise, any party seeking to impugn the said sale deed or the underlying chain of title is at liberty to pursue declaratory and consequential relief before the competent civil court. The civil forum is fully empowered to undertake a comprehensive examination of all relevant issues, including title, allegations of fraud, validity of conveyances, the effect of prior judgments, rights of third parties, and other ancillary matters. Thus, not only does an alternate remedy exist, but the same is already being actively pursued. In such circumstances, any interference in revenue proceedings through constitutional jurisdiction would give rise to parallel adjudication, potential conflicting findings, and may cause prejudice to the pending civil litigation.

21. It is pertinent to note an additional facet of the case. The record, as relied upon by the respondents, demonstrates that the Petitioner had submitted objections before the Board and actively participated in

the review proceedings. It is further evident from the Board's order that at the time when amendment of the provision from Section 163 to Section 8 was sought, no objection was raised by the Petitioner. While it is settled law that mere participation does not confer jurisdiction where none exists, nevertheless, where jurisdiction is otherwise vested by law and no timely objection is raised, such conduct assumes significance in assessing the bona fides of the party and the nature of the challenge. In the present matter, once it stands established that Section 8 conferred review jurisdiction upon the Board, the Petitioner's acquiescence in the proceedings operates against him. A litigant who participates in proceedings, permits the forum to proceed under a statutory provision, and subsequently, upon an adverse outcome, invokes constitutional jurisdiction, cannot, as a matter of right, claim discretionary relief.

22. The Petitioner has imputed mala fides, collusion, and alleged ante-dating of orders. Such imputations, being grave in nature, cannot be entertained in a casual or cursory manner. It is a settled principle of law that allegations of mala fides must be specifically pleaded, supported by cogent particulars, and substantiated through clear, credible, and unimpeachable evidence. Mere bald assertions, conjectures, suspicions, or inferential claims do not meet the requisite legal threshold. In the present case, the record does not disclose any firm or incontrovertible material on the basis of which this Court, in exercise of its constitutional writ jurisdiction, may record a definitive finding of mala fides against statutory functionaries. At best, such allegations give rise to disputed questions of fact necessitating evidentiary determination, which cannot be undertaken in these proceedings. Consequently, no relief can be granted on this ground.

23. Considerable submissions were advanced on behalf of Respondents No. 3 and 17 concerning prior litigation between the parties, including civil suits, appellate proceedings, and matters adjudicated before the Supreme Court. While such proceedings may bear materially upon the merits of title and the respective rights of the parties, it would neither be necessary nor appropriate for this Court, in the present petition, to render any conclusive findings thereon. Any such pronouncement may prejudice pending civil proceedings. It suffices to note that the respondents have demonstrated that the dispute is neither recent nor isolated, but rather forms part of

protracted and multifaceted litigation spanning several judicial and administrative fora. This, in itself, fortifies the conclusion that the present writ petition is not an appropriate forum for the final adjudication of the parties' rights.

24. Learned counsel for Respondent No. 3 has further placed reliance upon the judgment reported as 2007 SCMR 1256 to contend that where cognizance of a matter is initially taken by a single Member and the ultimate determination is rendered by the full Board, no prejudice is occasioned to any party. The ratio decidendi of the said judgment appears to be that an increase in the number of adjudicating authorities does not ordinarily result in prejudice, whereas a reduction in such number may, in certain circumstances, give rise to a grievance. In the present case, the Petitioner has asserted that the matter ought to have been heard by the same Member who passed the earlier order, or alternatively, that the Senior Member lacked competence to entertain the proceedings. In rebuttal, the respondents have invoked the aforesaid authority to demonstrate the absence of any prejudice. Without embarking upon an exhaustive analysis, it may be observed that under the relevant statutory framework, an order passed by a Member is deemed to be an order of the Board, and Section 8 vests jurisdiction in the Board as a collective entity. Consequently, in the absence of demonstrable and tangible prejudice, a challenge premised solely on the ground that the matter was heard by one Member as opposed to another would not, per se, render the proceedings coram non iudice. No such prejudice has been substantiated in the instant case. It is evident that the entire petition is predicated upon the contention that the Board lacked jurisdiction to entertain the review petition due to the omission of Section 163 of the Land Revenue Act; however, this contention is untenable once due regard is given to the provisions of Section 8 of the Board of Revenue Act.

25. The petitioner has failed to satisfactorily demonstrate that Section 8 was inapplicable to the matter at hand; on the contrary, a plain reading of the statutory provisions indicates otherwise. Accordingly, the impugned proceedings cannot be declared wholly coram non iudice or without jurisdiction. It is, however, well settled that a statutory forum is bound to act within the confines of the law and is not competent to adjudicate upon questions of title or to annul

duly registered instruments. In the event that any portion of the Board's order encroaches upon civil rights beyond the scope of its revenue jurisdiction, it shall remain open to the aggrieved party to seek appropriate relief before a court of competent jurisdiction in accordance with law. Nonetheless, the sweeping relief sought in the present petition namely, that the Board lacked jurisdiction in toto to entertain the review being untenable, is hereby declined.

26. A writ of prohibition lies to restrain a tribunal or authority from proceeding in matters where it lacks jurisdiction or acts in excess of its lawful authority. In the present case, having determined that the Board of Revenue is vested with statutory power of review under Section 8, no writ of prohibition may be issued merely to arrest proceedings that fall squarely within its lawful competence. Furthermore, where the controversy involves mixed questions of title, allegations of fraud, and prior litigation, and where civil suits in respect thereof are already pending, the issuance of a writ of prohibition would not serve the ends of justice. Rather, it would result in fragmentation of the dispute and may impede the orderly and comprehensive adjudication of issues by forums of competent jurisdiction.

27. With regard to the final contention that the Board lacked jurisdiction to entertain a time-barred review application on the ground that, under Section 8, such application was required to be filed within 90 days. It is evident from the record that the review application was duly entertained by the Board. Notices were issued to the concerned parties, and the matter was heard and adjudicated upon merits. The order passed by the Board reflects proper and due consideration of the substantive issues involved. Notably, no objection pertaining to limitation was raised by any party at the time of hearing before the Board. The proceedings were permitted to continue without protest, and the case was argued on merits. The question that thus arises is whether, in such circumstances, the absence of an explicit finding on limitation renders the impugned order without jurisdiction. It is a well-settled principle of law that where a Court or Tribunal proceeds to entertain a matter and adjudicate it on merits, it shall be presumed that any delay, if present, has been condoned. The passing of a formal or separate order for condonation of delay is not mandatory in every case and may be inferred from the conduct of the adjudicating

forum. Moreover, where no objection as to limitation has been raised before the competent forum, such objection cannot ordinarily be permitted to be agitated at a subsequent stage. A party who has acquiesced in the proceedings and participated therein on merits is deemed to have waived such objection. In the present case, the Board, by entertaining the review application, issuing notices, and deciding the matter on merits, has clearly exercised jurisdiction vested in it. The absence of an express finding on limitation does not vitiate the proceedings; rather, it gives rise to a presumption that any delay, if existent, stood impliedly condoned. Consequently, the order passed by the Board in review proceedings is held to be lawful, valid, and within jurisdiction.

28. Before concluding, it is deemed appropriate to clarify that proceedings conducted before the revenue authorities neither confer conclusive title nor operate to extinguish the same. The respective rights and interests of the Petitioner, Respondent No. 3, Respondent No. 17, and all other concerned parties whether arising from registered instruments or otherwise recognized under the law shall remain subject to determination by a court of competent civil jurisdiction. It is further clarified that any entry in the revenue record, any finding recorded by the Board of Revenue, or any observation made in the present judgment shall not, in and of itself, constitute a final adjudication or declaration of title. This clarification is necessitated in view of the fact that the parties appear to be simultaneously engaged in parallel proceedings before revenue authorities and civil courts, giving rise to a likelihood that findings in one forum may be invoked to prejudice or preclude proceedings in another. Such a consequence shall not ensue, save and except to the extent permissible under the law.

29. For the reasons set out hereinabove, it is held that the Board of Revenue, Sindh, was vested with lawful and statutory jurisdiction under Section 8 of the Sindh Board of Revenue Act, 1957, to entertain and adjudicate upon the review of its earlier order. The mere citation of Section 163 of the Sindh Land Revenue Act, 1967, in the initial review application does not, in the peculiar facts and circumstances of the case, vitiate the proceedings or render them void ab initio, particularly when the power of review was otherwise available under Section 8 of the Act of 1957. The instant petition raises disputed

questions of fact and title, for which an adequate and efficacious alternate remedy before the competent civil courts exists and is, in fact, already being pursued. Consequently, the matter does not warrant the exercise of constitutional jurisdiction under Article 199 of the Constitution. The Petitioner, therefore, is not entitled to the grant of a declaration, writ of prohibition, or any other discretionary relief in the present circumstances. Accordingly, this Constitution Petition is dismissed, along with all pending applications, if any. It is, however, clarified that: (a) Any observations made herein are confined strictly to the question of maintainability and the jurisdiction of the Board of Revenue in relation to the impugned review proceedings; (b) Nothing contained in this judgment shall be deemed to constitute a final determination regarding title, ownership, possession, the validity of sale deeds, or the rights of any third parties; (c) The parties shall remain at liberty to agitate all permissible pleas before the competent civil court or any other forum of competent jurisdiction, which shall adjudicate the matter independently, strictly in accordance with law and on its own merits, without being influenced by any tentative observations recorded herein. The petitioner shall be at liberty to call in question the legality of the impugned order before the competent civil court, if he so desires.

JUDGE

JUDGE