

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P No.D-3013 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Fresh case

- 1. For order on Misc. No.13288/2025 (Urgent/App).
 - 2. For order on office objection No.1 to 9.
 - 3. For order on Misc. No.13289/2025 (Exemption/App)
 - 4. For hearing of main case.
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Dated 02.07.2025

Mr. Muhammad Zareef Lakho, Advocate for petitioners.

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1. Through instant petition, the petitioners claimed the following relief:-

- a. *Direct the Respondents, particularly Respondent No.4 (Survey Superintendent) and Respondent No.3 (Assistant Commissioner, Bin Qasim), to forthwith undertake and complete the Demarcation, Partition and Mutation of land measuring 04-16 Acres bearing Survey No.113, Deh Joreji, Bin Qasim, Malir, Karachi in favour of the petitioners, as per the valid record and verified ownership and submit such documents with compliance report thereof within reasonable time period as granted by this Honorable Court.*

2. Learned counsel for petitioners at the very outset was confronted with the maintainability of the instant petition as the relief claimed by him fell purely within the domain of the Revenue Court.

3. Mr. Muhammad Zareef Lakho, learned counsel for petitioners contended that the petitioners are the owners of the land Survey No.113 of Deh Joreji, Bin Qasim, Malir, Karachi and such entry is recorded in their favour in Deh Form-VII. The petitioners filed an application for demarcation and partition on 22.11.2024 before the Assistant Commissioner Bin Qasim/ Respondent No.3, who did not entertain the same, hence a complaint dated 09.12.2024 was moved before the Deputy Commissioner, Malir/ Respondent No.2, who forwarded the complaint to the Assistant Commissioner, Bin Qasim for redressal of the grievance. The Assistant Commissioner called report from the concerned Mukhtiarkar and after verification of the record, he directed the Survey Superintendent/ Respondent No.4 vide letter dated 12.03.2025 to undertake the survey and partition proceedings. Respondent No.4 vide its letter dated 24.03.2025

informed the Respondent No.3 that the demarcation and partition proceedings could not be undertaken as the entry with regard to another survey No.117 of same Deh was blocked and the land could not be demarcated unless the said entries are restored. The petitioner, therefore, has sought indulgence of this Court seeking directions to carry out the partition proceedings of the property. He contended that the petition was maintainable as the petitioners have got no other remedy available under the law.

4. Heard learned counsel perused material on record.

5. Per the contents of the petition, the petitioners are co-owners of the property in survey No.113 of Deh Joreji of District Malir and they filed an application for the partition of the property before the Assistant Commissioner, Bin Qasim. Sindh Land Revenue Act, 1967 [“SLRA”] provides a complete mechanism for partition of the joint holdings. Section-135 of the SLRA being relevant is reproduced for the sake of convenience:-

“135. Application for partition. Any joint owner of land may apply to a Revenue Officer for partition of his share in the land if:-

(a) At the date of application the share is recorded under Chapter VI as belonging to him, or

(b) His right to the share has been established by a decree which is still subsisting at that date; or

(c) A written acknowledgement of that right has been executed by all persons interested in the admission or denial thereof.”

6. The application filed by petitioners was duly entertained by the Assistant Commissioner, Bin Qasim, Respondent No.3 in the present petition and forwarded to the Survey Superintendent, Karachi/ Respondent No.4. The Survey Superintendent, Karachi vide its letter dated 24.03.2025 informed the Additional Deputy Commissioner-I, District Malir, Karachi that the property survey No.117, Deh Joreji was blocked thus demarcation cannot be done, the same position has also been confirmed by the Mukhtiarkar Bin Qasim in its report dated 30.01.2025.

7. The perusal of the application filed by the petitioners revealed that they sought demarcation and partition of two survey numbers i.e., 113 and 117 in their application dated 22.11.2024 filed before the Assistant Commissioner Bin Qasim Town, District Malir, Karachi.

Under Section-135 of SLRA, Assistant Commissioner being the competent Revenue Officer is empowered to decide the application for the partition and after decision on the partition application, the matter has to be referred to the Survey Superintendent for the demarcation proceedings. In the instant case Assistant Commissioner without undertaking the exercise of partition referred the matter to the Survey Superintendent which was rightly not entertained by the Survey Superintendent as the property was not partitioned in terms of Section-135 of SLRA.

8. The petitioners were required to file proper application under Section-135 of SLRA by joining all the shareholders as party in the application but instead simple application was moved. The demarcation and partition proceedings fall within the domain and competence of the Revenue Authorities and a Revenue Officer is empowered to undertake survey, demarcation and partition under Sections 131 and 135 of SLRA. The jurisdiction of the other forums including this Court is barred by Section-172 of the SLRA. Since the entry regarding the land which petitioners seek partition has been blocked by the competent revenue authority and it is the prerogative of the Revenue Court to unblock or restore said entry and its jurisdiction cannot be interfered into by this Court under writ jurisdiction, therefore, the petitioners are required to avail the remedy before the forum available under the law.

9. This petition, therefore, being not maintainable is dismissed in *limine* along with pending applications. The petitioners are left at liberty to avail remedy before the forum available under the law.

JUDGE

JUDGE

Ayaz Gul