

IN THE HIGH COURT OF SINDH AT KARACHI

C. P. No. S – 604 of 2025

Date	Order with Signature of Judge
------	-------------------------------

Hearing / Priority

1. For order on office objection Nos.1 to 9 and reply as at A.
2. For order on CMA No.5507/2025.
3. For hearing of CMA No.4886/2025.

**09.09.2025**

Mr. Ahmed Masood, Advocate for the petitioners.  
Mr. Muhammad Nishat Warsi, Advocate for the intervenor.

-----

According to the background of the case recorded in this “Harassment Petition” vide Order dated 23.07.2025, the petitioners claim that they are the declared successors of Mr. Muhammad Ayaz ur Rehman Baqai, who was the alleged lawful owner of the subject plot, and that they had possession of the subject plot until 21.03.2025, when Respondent No.4 illegally dispossessed the petitioners. However, when they sought repossession of the said plot from Respondent No.4, the police authorities offered no help.

Thereafter, the petitioners filed ID Complaint No.60 of 2025 before the XIV Additional District and Sessions Judge, Karachi East, and the same was dismissed vide Order dated 12.07.2025. Instead of seeking legal recourse against the said Order, the petitioners invoked writ jurisdiction and filed this “Harassment Petition”. On the very first date of hearing, without notice to the other side, the petitioners obtained an ex parte Order dated 23.07.2025, that:

“Respondent Nos.5 and 6 are directed to provide protection to the petitioners in accordance with law and to ensure that no harassment is caused to them in the process of taking possession of the subject plot strictly in accordance with law.”

Yet, when Respondent Nos.5 and 6 were allegedly “hesitant” to enforce the Order dated 23.07.2025, the Petitioners, once again, approached the Regular Bench of the High Court and moved certain misc. applications which came up for Orders on 30.07.2025, and, once again, on the first date of hearing of these fresh civil misc. applications without any notice to any of the Respondents, in the “Harassment Petition” obtained yet again, a further Order dated 30.07.2025 that:

“Since no prejudice will be caused to the respondents on the mere presence of the Nazir, the instant application is allowed as prayed and the Nazir is appointed, without

notice, to supervise the process of taking over possession of the subject plot . . .”

According to the Nazir’s Report dated 06.08.2025, peaceful possession of the subject plot has been handed to the petitioners as per the Court’s Orders.

When this matter was taken up on 02.09.2025, this Court challenged the maintainability of the petition and listed the matter for hearing today.

The Counsel for the Petitioner submits that he has sought a declaration in his prayer clause under Article 199(1)(a)(ii) of the 1973 Constitution. However, he concedes that there is no related prayer challenging any Order passed by the lower forum which may be “without lawful authority” or “is of no legal effect” to bring this lis within the Roster of the Regular Bench under Article 199(1)(a)(ii) of the 1973 Constitution. As a matter of fact, the petitioner’s Counsel has already conceded, as per the Order dated 23.07.2025, that on dismissal of the petitioner’s ID Complaint No.60/2025, they will take “appropriate legal recourse against the said [dismissal] order [dated 12.07.2025, which] will be pursued in accordance with law.”

Additionally, Counsel further concedes that the “declaration” that the petitioner seeks against the Respondents, in effect, is in the nature of “directions” that the Law Enforcement Officers, and Government Officers, such as the Director-General, KDA (Respondent No.3), etc. perform the functions that they are required to do, the subject-matter of which, falls within the Roster of the Constitutional Bench under Article 199(1)(a)(i) of the Constitution read with Articles 175, 175A and 202A of the 1973 Constitution as amended by the 26th Amendment.

In view of the foregoing, given the two (2) separate Orders passed by the Full Bench of this Court in the recent unreported judgment of the Full Bench dated 22.04.2025 in Syed Sahir Hasan v. The Province of Sindh and Others (Constitutional Petition No.D-937/2025)(“the Syed Sahir Hasan case”), and another Full Bench judgment dated 22.04.2025 in Muhammad Shoaib Palijo & Ors v. Province of Sindh & Others, in CP No.D-508/2023 along with C.P. No.D-509, 1080, 1105, 1587, 227, 2736, 3978, 4308, 5087 and 5422 of 2023, because of the “OVERLAPPING ISSUES”, the Regular Bench cannot hear this matter. A Constitutional Bench must hear the Petition, as well as issue of its maintainability.

Let this matter be fixed before a Constitutional Bench on Monday, 15 September 2025.