

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P No.S-109 of 2026

[Muhammad Ismail Panhwar v. Learned District Judge, Dadu and others]

Petitioner : Muhammad Ismail Panhwar
s/o Muhammad Umar
Through Mr.Agha Waqar Ahmed, Advocate

Respondents : Nemo

Date of hearing : **16.02.2026**

Date of Decision : **16.02.2026**

ORDER

ARBAB ALI HAKRO, J.- The petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution, seeking directions to the Executing Court at Dadu to execute forthwith the decree passed in his favour, asserting that no stay order is in force and that the Executing Court has unlawfully declined to proceed.

2. Concise facts, as emerging from the petition, are that the petitioner claims ownership of City Survey No.900/42-A, Ward-A, Mohallah Gareebabad, Dadu. After unsuccessful rent proceedings and the dismissal of an earlier constitutional petition, he instituted F.C. Suit No.235 of 2017 (new No.44 of 2020), which was decreed on 29.06.2021 and 30.06.2021. The respondents' Civil Appeal No.102 of 2021 was dismissed on 21.12.2021. Civil Revision No.22 of 2022 was thereafter filed by the respondents and has remained pending. During the pendency of the revision, the petitioner filed Execution Application No. 01 of 2022. Various applications under Section 47 CPC and Civil Misc. Appeals were dismissed. Writs of possession were issued on multiple occasions, including on 11.02.2023 and again on 12.02.2025. The order dated 12.02.2025 was initially suspended on 25.02.2025, but the suspension order was recalled on 28.02.2025. The Executing Court, however, continued to report difficulties in execution owing to issues with the identification of the suit property and the pendency of the revision. Ultimately, Civil Revision No.22 of 2022 was dismissed for non-prosecution on 23.01.2026, but was restored on 26.01.2026. The petitioner now alleges that, despite the absence of any operative stay, the Executing Court has refused to execute the decree.

3. Learned counsel for the petitioner contends that pendency of a civil revision does not, by itself, operate as a stay and that the Executing Court has failed to exercise jurisdiction vested in it. He submits that the decree has

attained finality and that the respondents have repeatedly obstructed execution through frivolous proceedings. It is argued that the Executing Court's stance that it is "incharge" and therefore unable to execute the decree is wholly misconceived. Counsel maintains that the petitioner has been deprived of the fruits of the decree for years and prays for directions to ensure immediate execution.

4. I have heard learned counsel and examined the available record.

5. The record reflects that the execution proceedings have remained entangled in multiple factual controversies, particularly regarding the identification and demarcation of the suit property. The Executing Court, in its progress report dated 04.09.2025, has categorically stated that the directions contained in the plaint, Judgment and writ of possession "do not correspond with the actual site" and that the writs were repeatedly returned unexecuted for this reason. The Nazir of the Court was appointed for survey and demarcation pursuant to the order dated 28.02.2025, and his report was awaited for further directions. These circumstances demonstrate that the impediment to execution was not merely the pendency of the revision, but also the unresolved factual dispute regarding the identity of the property. This issue cannot be adjudicated in constitutional jurisdiction.

6. The petitioner's assertion that the Executing Court has refused to act solely due to the pendency of the revision is not borne out by the record. The progress report clearly shows that the Executing Court was awaiting directions of this Court in view of the Nazir's survey and the conflicting site descriptions. The petitioner himself repeatedly approached this Court in the connected revisions for directions, thereby acknowledging that the matter was intertwined with the pending proceedings. The restoration of Civil Revision No. 22 of 2022 on 26.01.2026 further demonstrates that the lis is still alive before this Court, and the Executing Court cannot be compelled to proceed in disregard of the supervisory orders passed in the revision.

7. It is settled law that constitutional jurisdiction cannot be invoked to bypass or short-circuit the statutory mechanism of execution, nor can this Court, in exercise of writ jurisdiction, undertake factual inquiries relating to demarcation, identification or measurement of immovable property. The petitioner seeks, in essence, a direction to compel execution notwithstanding the subsisting factual controversies and the pendency of the restored revision. Such relief is not permissible under Article 199.

8. The petitioner has failed to demonstrate any illegality, jurisdictional defect or mala fide on the part of the Executing Court. The record instead shows that the Executing Court has acted with caution in view of conflicting site reports and the orders passed by this Court in the connected revisions. No case for interference is made out.

9. In these circumstances, the petition is devoid of merit and does not warrant the invocation of constitutional jurisdiction. Resultantly, this petition is dismissed in limine along with pending applications.

JUDGE

AHSAN K. ABRO