

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-3920 / 2026
(Nadir Hussain Vs. Province of Sindh & Others)

C. P. NO. D-3921 / 2026
(Muhammad Hanif Vs. Province of Sindh & Others)

C. P. NO. D-3922 / 2026
(Muhammad Tariq Vs. Province of Sindh & Others)

C. P. NO. D-3923 / 2026
(Jahanzaib Khan Vs. Province of Sindh & Others)

Present:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

Date of hearing and order:- 05.08.2026.

Mr. Ashfaq Rafiq Janjua & Nadir Hussain, Advocates
for Petitioners.
Mr. Zohaib Sarki, Additional Advocate General Sindh.
Mr. Hassan Abidi, Advocate for Respondent (KMC).
M/s. Abdul Samad Khattak & Farooq Hashmat Abbasi,
Advocates for Respondents.
Mr. Jahanzeb Iqbal, Assistant Director KMC.
PI Adnan Asmat P.S. Defence.

Adnan-ul-Karim Memon, J. The Petitioners have filed these Petitions under Article 199 of the Constitution of Islamic Republic of Pakistan for the following reliefs: -

- “a) To restrain the respondent No.6 not to make any construction upon the said plots behind the Layout Plan.
- b) To direct the respondent No.11 to take necessary action against the respondent No.4 and decide the matter in accordance with the letter and spirit of order of Honourable High Court in CPD No.6149/2021.
- c) To restrain the respondent No.4 not to park the water tankers upon the plots of the petitioner.
- d) To restrain the respondent No.9 and 10 do not interfere in above said matter without any course of law.
- e) To direct the respondent No.2 to produce the original Layout plan of the area.
- f) To direct the respondent No.8 and 12 give legal protection to the petitioner and his properties.

- g) Any other relief(s) may deem fit and proper under the circumstances of the case.

2. The petitioners submit that they are the lawful owner of Plot Nos. 194-G and 194-H and other plots situated at Qayyumabad KMC Katchi Abadies, Korangi Township, Karachi, having purchased the same through registered sale deeds along with original lease deeds issued by the KMC Katchi Abadies Department. The property was subsequently mutated in his name, and he obtained NOCs from KMC for construction, whereafter he raised a boundary wall and commenced construction. According to the petitioners, respondent No.4, who owns an adjoining plot and operates an illegal water hydrant, demanded that the petitioners surrender their plots for parking water tankers. Upon refusal, respondent No.4, in collusion with officials of KMC and the District Administration, initiated proceedings which resulted in demolition of the petitioner's construction. The petitioners contend that after verification of their ownership documents, the Deputy Commissioner recalled the demolition order on 15.11.2022 and permitted reconstruction. The petitioners further allege that respondent No.4, in collusion with respondent No.3, prepared forged layout plans showing the petitioner's plots as a road and nala, filed various constitutional petitions and civil suits, and obtained interim orders on the basis of fabricated documents. They add that despite producing an authenticated site plan issued by the KMC Katchi Abadies Department showing the existence of their plots and a 30-foot road separately, respondent No.6 commenced construction over the petitioner's land. The petitioners maintain that respondent No.4 has no lawful interest in the property and is attempting to occupy it solely for parking water tankers through abuse of official machinery and repeated litigation. The petitioners, therefore, seek directions restraining respondents from carrying out construction over the disputed plots, preventing respondent No.4 from parking water tankers thereon, directing production of the original layout plan, ensuring police protection, and requiring the competent authorities to act in accordance with the earlier order of this Court passed in C.P. No. D-6149/2021.

3. Respondents No.3 and 11 deny the petitioner's claim in its entirety and submit that the lease deeds, mutation orders, NOCs and layout plans relied upon by the petitioner are fake, fabricated and without legal effect. It is contended that under the departmental policy, leases can only be issued where continuous possession supported by physical structures and utility connections exists, whereas no such possession or utilities were ever found at the disputed site. The respondents further submit that the alleged mutation orders and NOCs do not conform to the prescribed departmental procedure, as such documents can only be generated through the IT Section of the Katchi Abadies Department. According to

the official record, the disputed land forms part of a 30-foot public road and drainage line (nala), and any construction thereon constituted encroachment lawfully removed by the District Administration. It is further submitted that C.P. No. D-6149/2021 was instituted to protect government land from illegal encroachments and that the Mayor, KMC, acted in compliance with the order dated 03.06.2025 passed by this Court. The respondents contend that the issue already stands settled, the land has been declared public amenity/public road, and the petitioner is merely attempting to re-agitate concluded issues through successive constitutional petitions.

4. The private respondents raise preliminary objections regarding the maintainability of the petitions, submitting that the petitioners had earlier filed C.P. No.1125/2023, which was withdrawn, and that the controversy was subsequently decided pursuant to the directions issued in C.P. Nos.6149/2021 and 2031/2023. They submit that, after hearing all parties, the Mayor Karachi passed a speaking order dated 06.11.2025 declaring the petitioner's lease documents and those of similarly situated persons to be forged and illegal. Since the petitioners have not challenged the said order, the present petitions are stated to be incompetent. The respondents contend that the petitioners have deliberately concealed material facts, failed to disclose any legal ground warranting exercise of constitutional jurisdiction under Article 199 of the Constitution, and based their claim upon forged lease deeds, mutation orders, NOCs and layout plans. They assert that the approved layout plan does not contain Plot Nos.194-G and 194-H and that the disputed land is reserved for a public road and drainage line. The respondents further deny allegations of collusion or fabrication, maintaining that they instituted C.P. No.6149/2021 only to prevent illegal encroachments over public property. They submit that construction of the road and nala is a public welfare project, that respondent No.6 acted within his representative capacity, and that the Nazir's local inspection report dated 12.12.2024 in Suit No.1342/2024 also disproves the petitioner's claim. Accordingly, they pray for dismissal of the petitions with costs and initiation of criminal proceedings against the petitioners for producing allegedly forged documents before the Court.

5. Having heard the learned counsel for the parties and having examined the pleadings, documents placed on record, and the statutory framework governing the controversy, it appears that the entire dispute revolves around title, authenticity of the lease documents, correctness of the approved layout plan, and the nature of the disputed land, i.e., whether it constitutes privately leased plots or forms part of a public road/drainage (amenity) land. These questions involve seriously disputed and controversial questions of fact, requiring recording of evidence, examination of original departmental record, expert verification of the lease deeds, mutation orders, layout plans, and, if necessary, forensic examination

of the disputed documents. Such an exercise cannot be undertaken in the constitutional jurisdiction of this Court under Article 199 of the Constitution, which is confined to examining illegality, jurisdictional defects, mala fide exercise of statutory powers, or violation of fundamental rights based upon admitted or undisputed facts.

6. The petitioners have founded their claim upon registered sale deeds, lease deeds, mutation orders, NOCs and an alleged authenticated layout plan. On the other hand, the official respondents have categorically disputed the genuineness of each of these documents, asserting that the lease deeds, mutation orders and NOCs are forged and contrary to the prescribed procedure of the KMC Katchi Abadies Department. They further maintain that the disputed property forms part of a 30-foot public road and drainage line, which constitutes public amenity land incapable of private ownership or regularization under the relevant municipal laws. These rival assertions cannot be resolved merely on affidavits.

7. It is also an admitted position that this very controversy has remained the subject matter of C.P. No. D-6149 of 2021 and connected petitions, wherein the Hon'ble High Court directed the Mayor, Karachi Metropolitan Corporation, to determine the controversy after affording opportunity of hearing to all concerned. Pursuant thereto, the Mayor passed a speaking order dated 06.11.2025, allegedly declaring the petitioners' lease documents to be forged and the land to be public amenity land. Significantly, the petitioners have neither sought declaration of the said order as illegal nor prayed for its setting aside. Unless the said order is challenged and annulled in accordance with law, it continues to hold the field and enjoys the presumption of legality attached to official acts under Article 129(e) of the Qanun-e-Shahadat Order, 1984.

8. The relief sought by the petitioners also substantially seeks protection of their alleged title and possession over immovable property. It is well settled that questions relating to declaration of title, cancellation or validation of documents, possession, boundaries, demarcation, and disputed layout plans fall within the exclusive domain of the Civil Court under Section 9 of the Code of Civil Procedure, 1908, and cannot ordinarily be adjudicated in constitutional proceedings. Likewise, where allegations of forged or fabricated documents are raised, the matter necessarily requires trial after recording evidence. Furthermore, under the Sindh Local Government Act, 2013, the Karachi Metropolitan Corporation is the statutory custodian of municipal roads, public streets, drainage lines and amenity lands, and is legally bound to protect public property from encroachments. If the land is ultimately found to be reserved for a public road or nala in the approved layout plan, neither the Court nor any executive authority can validate an encroachment or confer proprietary rights over public amenity land, as

such land is held in trust for the benefit of the public and cannot be diverted for private use except strictly in accordance with law.

9. The petitioners have also alleged mala fide, collusion and abuse of authority by respondent No.4 and certain public officials. However, these allegations remain unsupported by independent, cogent and unimpeachable material. Mere allegations of mala fide, without convincing evidence, are insufficient to invoke constitutional jurisdiction, particularly where official actions are founded upon departmental record and previous judicial proceedings.

10. The prayers seeking restraint orders against respondent No.6 from carrying out construction, restraining respondent No.4 from parking water tankers, directing production of original layout plans, and directing police protection are all ancillary to the principal issue of title and nature of the land. Since the foundational issue itself remains seriously disputed, none of the consequential reliefs can be granted in the absence of a judicial determination by the competent forum.

11. In these circumstances, this Court is of the considered view that the petitioners have failed to establish any jurisdictional defect, patent illegality, violation of any mandatory statutory provision, or infringement of a fundamental right warranting interference under Article 199 of the Constitution. The controversy essentially involves disputed questions of title and fact, for which an adequate and efficacious alternate remedy before the competent Civil Court is available.

12. Before parting with this order, the KMC / competent authority shall ensure that no public property is encroached by any of the parties and if encroached upon, the same shall be retrieved forthwith.

13. Accordingly, the constitutional petitions are not maintainable and are liable to be dismissed. However, such dismissal shall not preclude the petitioners from seeking appropriate relief before the competent Civil Court or any other forum available under law for declaration of title, cancellation or validation of documents, demarcation of the property, or any other relief permissible under the relevant statutes. Any such proceedings shall be decided independently on their own merits, without being influenced by any observations made herein, except to the extent of determining the maintainability of these constitutional petitions.

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