

**IN THE HIGH COURT OF SINDH, CIRCUIT
COURT HYDERABAD**

C.P No. S-672 of 2025

[Ghulam Murtaza v. Habibullah & others]

Petitioners : Ghulam Murtaza through Mr. Imtiaz
Ali Channa, Advocate.

Respondent No.1 : Nemo.

Respondents No.2to5 : Through Mr. Muhammad Ismail
Bhutto, Additional Advocate
General, Sindh.

Date of Hearing : **27.04.2026**

Date of Order : **27.04.2026**

ORDER

RIAZAT ALI SAHAR. J. - This petition was dismissed for non-prosecution vide order dated 11.02.2026, however, the learned counsel for the Petitioner filed M.A. No.520/2026 seeking restoration of the petition to its original number; the learned Additional Advocate General Sindh, present in Court, waived notice of the restoration application. Heard and perused the record. During the course of hearing, the learned counsel for the Petitioner was apprised by the Court that the matter has its origin in the year 2013 when the suit was instituted and that despite various rounds of litigation, the main petition still awaits adjudication on merits; the Court, therefore, proposed that in view of the age and pendency of the matter, the petition may be restored provided the learned counsel for the Petitioner argues the same on merits today itself, to which the learned counsel for the Petitioner readily agreed and the learned Additional Advocate General Sindh raised no objection thereto; consequently, M.A. No.520/2026 is **allowed**, the order dated 11.02.2026 is recalled and the instant Constitutional Petition is restored to its original number.

2. Through this Constitutional Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the Petitioner has assailed the Order dated 13.03.2020 passed by the learned District Judge/M.C.A.C., Dadu, in Civil Revision Application No.03/2020, whereby the learned Revisional Court dismissed the Civil Revision preferred by the Petitioner against the Order dated 15.11.2019 passed by the learned Senior Civil Judge/Executing Court, Dadu, in Execution Application No.04/2018, wherein the execution application filed by the Petitioner/Decree Holder was dismissed, and the matter is accordingly taken up for hearing on merits forthwith was dismissed.

3. The background of the case is that the Petitioner instituted First Class Suit No.141/2013 before the learned Senior Civil Judge, Dadu, for Specific Performance of Contract and Permanent Injunction, alleging that Respondent No.1/Defendant entered into an agreement of sale dated 18.07.2011 in respect of agricultural land bearing Survey Nos.288/A-B, 296/A admeasuring 01-13 acres and Survey No.286/A-B admeasuring 01-17 acres, total area 02-30 acres, situated in Deh Buth Malho, Taluka and District Dadu, for a total consideration of Rs.2,00,000/-, out of which Rs.1,60,000/- was paid at the time of execution of the agreement and possession of the suit land was delivered to the Petitioner. During the pendency of the suit, the parties arrived at a compromise and filed an application under Order XXIII Rule 3 C.P.C., which was allowed by the learned trial Court vide order dated 03.08.2016, and a compromise decree was passed on 10.08.2016, whereby the defendant/Respondent No.1 acknowledged receipt of the agreed consideration, confirmed the Petitioner's possession over the suit land and undertook that neither he nor his relatives would claim or dispute ownership of the suit land before any forum. Subsequently, as Respondent No.1 failed to execute the registered sale deed, the Petitioner filed Execution Application No.04/2018, which was dismissed by the learned Executing Court on 15.11.2019 on the ground that the terms of the compromise decree did not specifically obligate Respondent No.1 to execute a registered sale deed; this finding was upheld by the learned District Judge/Revisional Court vide impugned order dated 13.03.2020.

4. Learned counsel for the Petitioner contended that the orders of both the courts below are patently illegal, contrary to law and facts and have resulted in grave miscarriage of justice. He contended that the learned Executing Court manifestly erred in not advertent to the terms of the compromise decree, which categorically established the Petitioner's title and possession over the suit land and precluded the Respondent No.1 from raising any dispute before any forum; that in view of such binding terms, the relief of directing execution of a registered sale deed or in default thereof, execution thereof by the Nazir of the Court on behalf of Respondent No.1 was squarely available under the decree and could not have been withheld. He further contended that the learned Revisional Court committed a jurisdictional error by confirming a manifestly erroneous order without independently examining the terms of the compromise decree and without framing points of determination as mandated under Order XLI Rule 31 C.P.C., thereby rendering the impugned orders liable to be set aside.

5. Learned Additional Advocate General Sindh for the official Respondents, supported the impugned orders and contended that the learned courts below correctly appreciated the contents of the compromise decree and rightly concluded that no specific obligation to execute a registered sale deed was incorporated therein. He contended that the compromise decree, by its express terms, merely recorded Respondent No.1's acknowledgement of the Petitioner's possession and contained a negative covenant restraining any future dispute, it did not create or embody an enforceable direction for execution of a registered sale deed and hence, the Executing Court could not travel beyond the four corners of the decree. He further contended that no jurisdictional defect, illegality, or violation of fundamental rights warranting interference under Article 199 of the Constitution has been made out and the petition is liable to be dismissed.

6. Having heard the learned counsel for the parties and having carefully perused the record, including the compromise application, the compromise decree dated 10.08.2016, the impugned Order dated 15.11.2019 of the learned Executing Court and the impugned Order dated 13.03.2020 of the learned Revisional Court, I am of the considered view that the instant Constitutional

Petition is devoid of merit and is liable to be dismissed for the following cogent and compelling reasons:

- (i). A bare and unambiguous reading of the compromise decree dated 10.08.2016 incontrovertibly reveals that its terms were confined to: (a) acknowledgement of the Petitioner's possession over the suit land; (b) confirmation of receipt of due consideration by Respondent No.1; and (c) a negative covenant that Respondent No.1 and his relatives shall not claim or dispute ownership of the suit land before any forum. Nowhere in the compromise decree was any positive or affirmative obligation cast upon Respondent No.1 to execute a registered sale deed in favour of the Petitioner. It is obvious and a settled principle of law that an Executing Court cannot travel beyond the decree, add to its terms, or enforce obligations not expressly incorporated therein. The learned Executing Court, therefore, committed no illegality in declining to direct execution of a registered sale deed where the decree itself was silent in that regard.
- (ii). The learned Revisional Court, after meticulous scrutiny of the record, returned a well-reasoned finding that the private faisla and the compromise decree did not contain any undertaking by Respondent No.1 to execute a registered sale deed and that Respondent No.1 had himself disclosed in his written statement that he was not the sole and exclusive owner of the suit land. This finding is not only legally sound but is also supported by the record. Since Respondent No.1 was not the exclusive owner of the entire suit land, he was not legally competent to execute a sale deed for the whole of the suit property, rendering the execution application fundamentally infirm.
- (iii). The power of this Court under Article 199 of the Constitution is supervisory and is not to be exercised as a Court of appeal. Interference is warranted only

where there is a jurisdictional error, a glaring legal infirmity, or a violation of fundamental rights. In the present case, both the courts below have arrived at concurrent and legally sustainable findings on a proper appreciation of the terms of the compromise decree. The Petitioner has failed to identify any jurisdictional error, material illegality, or any violation of his fundamental rights that would justify interference by this Court in its constitutional jurisdiction. The grievance of the Petitioner, if any, arises from the inadequate drafting of the terms of the compromise and not from any illegality committed by the courts below.

7. For what has been discussed above, instant petition is **dismissed**. The impugned Order dated 13.03.2020 passed by the learned District Judge/M.C.A.C., Dadu, in Civil Revision Application No.03/2020, and the Order dated 15.11.2019 passed by the learned Senior Civil Judge/Executing Court, Dadu, in Execution Application No.04/2018, are hereby **upheld**. There shall be no order as to costs.

JUDGE