

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Const: Petition No. D-6083 of 2026
{Mst. Zehbo Mai V/S Province of Sindh & Others}

Date	Order with signature(s) of Judge(s)
1.For orders on Misc. No. 24066/2026	
2.For orders on office objection.	
3.For orders on Misc. No. 24067/2026	
4.For orders on Misc. No. 24068/2026.	
5.For hearing of main case.	

18th September, 2026.

Syed Qamar Abbas, Advocate for Petitioner

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Muhammad Saleem Jessar, J.:- Through this petition, petitioner has sought following relief(s):-

- a. *Restrain Respondent Nos.03 to 05 and 08, their subordinates, police officials and any person acting under their authority from unlawfully interfering with the peaceful possession of the Petitioner over the Subject Property, dispossessing her therefrom, or extending any coercive assistance to Respondent Nos.09 & 10 for the purpose of obtaining possession of the Subject Property.*
- b. *Restrain Respondent Nos.02 to 05 and 08, their officers, officials and subordinate staff from taking any coercive action or unlawfully interfering with the Petitioner's possession of the Subject Property during the pendency of the civil proceedings.*
- c. *Restrain Respondent Nos.06 and 07, and their subordinate officials, agents or representatives from interfering with the peaceful possession and occupation of the Petitioner in respect of the Subject property, or from taking any coercive action against the petitioner or the Subject property.*
- d. *Grant any other relief which this Honourable Court may deem just and proper in the circumstances of the case.*

From averments contained in the petition, as well as from the submissions made by learned counsel for the petitioner, it is apparent that the controversy between the parties essentially concerns the possession and entitlement in respect of the Flat No. 306, 3rd Floor, “B” Category Situated at Plot bearing Survey No.3/2/1/1/1, Survey Sheet No.LY-26, (Old Survey No.K-16/PO-3/4), Jamila Street, Lyari Quarters, Karachi (Subject Property). The petitioner herself has candidly acknowledged that a Civil Suit No. null of 2026 {Re: Mst. Zebo Mai V/S M/s ARJ Builders & Developers Pvt. Ltd & others} concerning the same property is already pending adjudication before the Senior

Civil Judge, Karachi-South, a copy whereof has been annexed with the petition, which is available at page 49 of the file.

It is a settled principle that the jurisdiction conferred upon this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 (The Constitution) is discretionary and is to be exercised where no other adequate remedy is provided by law. The constitutional jurisdiction under Article 199 of the Constitution is not intended to substitute the ordinary civil jurisdiction of the competent Civil Court, particularly where determination of the controversy requires examination of disputed questions of fact, possession, title, documents and evidence. The extraordinary jurisdiction of the High Court is intended primarily to examine the legality or propriety of an action of a public authority where such illegality can be determined without undertaking an elaborate inquiry into disputed facts. Where an adequate and efficacious alternate remedy is available before a court of plenary jurisdiction, the constitutional jurisdiction ought not ordinarily to be invoked. In this regard, reliance may be placed upon the case of **FAIZ ULLAH KHAN AND OTHERS V. MEMBER BOARD OF REVENUE PUNJAB, LAHORE AND OTHERS** (PLD 2026 FCC 97 = 2026 CJ Review 9), the Hon'ble Court has reiterated that where a controversy involves intricate, disputed or contentious questions of fact requiring recording and appraisal of evidence, the same falls within the domain of a court of plenary jurisdiction and cannot ordinarily be determined by the High Court in exercise of its constitutional jurisdiction. Likewise, the Hon'ble Supreme Court in **MUHAMMAD SAFEER AND OTHERS V. MUHAMMAD AZAM AND OTHERS** (PLD 2024 Supreme Court 838), reiterated that ordinarily the High Court refrains from exercising jurisdiction under Article 199 where an adequate remedy is available under law. Though availability of an alternate remedy does not constitute an absolute bar in every case, departure from the ordinary rule requires exceptional circumstances, such as where the impugned action is clearly without jurisdiction, patently malicious, void or *coram non judice*.

In the present case, the petitioner herself has admitted the pendency of Civil Suit before civil court. The relief sought by the petitioner would, in substance, require this Court to enter into the question as to who is in lawful possession of the Subject Property and whether the petitioner is entitled to protection against the rival claimants. Such determination necessarily involves examination of the respective claims of the parties and appreciation of the documentary and other evidence. These matters are already sub judice before the learned Senior Civil Judge, Karachi-South. The petitioner has an efficacious

remedy before the learned Civil Court, including the remedy of seeking appropriate interim protection in accordance with law. The law specifically provides a mechanism before the Civil Court for grant of temporary injunction where the circumstances contemplated by Order XXXIX, Rules 1 and 2, C.P.C. are established. The Sindh High Court has reiterated that questions relating to prima facie entitlement and interim protection under Order XXXIX, Rules 1 and 2, C.P.C. are to be examined by the competent Civil Court on the basis of the material placed before it.

Since the petitioner has already approached the competent Civil Court in respect of the same controversy, this Court, therefore, is not inclined to assume parallel jurisdiction and examine the merits of the rival claims in exercise of Article 199 of the Constitution.

In view of foregoing, instant petition, being devoid of merits and involving disputed questions of fact which are already *sub judice* before the competent civil court, is hereby dismissed along with listed applications.

As regards the allegation of harassment is concerned, in terms of the constitutional guarantee embodied in Article 4 of the Constitution, every person is entitled to be treated in accordance with law, while Article 9 protects the life and liberty of a person except in accordance with law. The official respondents are, therefore, directed to ensure that the petitioner is not subjected to any harassment, intimidation, or unnecessary interference except strictly in accordance with law.

The petition stands disposed of in the above terms.

Judge
Head of Const. Benches

Aamir/PS

Judge