THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

C.P.No.S-345 of 2026

Petitioner:	Pakistan Petroleum Limited Through M/s. Asif Ali Abdul Razzak Soomro and Ajmair Ali Bhutto, Advocates
The State:	Through Mr. Saeed Akbar Siyal, Assistant Advocate General, Sindh a/w Faisal Memon, Regional Director, Human Settlement Authority, Government of Sindh and Safdar Ali Kalwar, Mukhtiarkar, Kashmore.
Date of hearing:	02.11.2026
Date of Order:	02.11.2026

O R D E R

ARBAB ALI HAKRO, J.- Through this petition, the petitioner, who is the plaintiff in F.C. Suit No.13 of 2023 pending before the learned Senior Civil Judge, Kashmore (hereinafter referred to as '**the trial court**'), calls in question order dated 13.05.2025, whereby its application under Order I Rule 10(2) read with section 151 of the Code of Civil Procedure, 1908 (**'CPC'**) was dismissed and order dated 02.06.2025 passed by the learned District Judge, Kashmore @ Kandhkot (hereinafter referred to as '**the revisional court**'), whereby Civil Revision No.09 of 2025 against that order also failed ('the **impugned orders**').[1] By the application, the petitioner sought to join as defendants the Secretary to Government of Sindh, Human Settlement, Spatial Development and Social Housing Department and the Director General and the Regional Director, Larkana, of the Human Settlement Authority, formerly the Sindh Katchi Abadis Authority (**'the Authority'**). They are arrayed in this petition as respondents No. 8 to 10.

2. The suit is for declaration and permanent injunction. The petitioner pleads that since the 1950s it has been in possession of 07-23 acres out of Survey No.430, Deh Pako Khoski, Taluka Kashmore (**'the suit land'**), where it maintains the store yard established for the Sui gas field, on an annual

[1] Annexures "C" and "A" to the petition, at pages 33 to 35 and 17 to 21 respectively.

lease from the Government. It seeks a declaration that the order dated 19.04.2019 of the Additional Commissioner-II (Revenue), Larkana, which returned the whole of Survey No.430 to the State and directed action against the petitioner, and the order dated 23.01.2020 of the Member (Judicial-III), Board of Revenue, maintaining it, are illegal, and an injunction against its dispossession.

3. The Mukhtiarkar, Kashmore (respondent No.7), in his written statement, has pleaded that Survey No.430 is Government estate land measuring 11-35 acres; that 03-12 acres of it are allotted to the Sindh Katchi Abadis Authority under a notification dated 02.03.1994 and mutated in its favour vide entry No.309 dated 26.11.1995 in Form-II of Town Kashmore; and that about 09-00 acres are in the possession of the petitioner without any document of title.

4. In January 2025, upon the petitioner's inquiry, the Regional Director of the Authority at Larkana, by letter dated 06.01.2025, and the Section Officer-I of the Human Settlement Department, by letter dated 09.01.2025, are stated to have conveyed that the land in the petitioner's control forms part of the notified katchi abadi known as Jatt Muhalla.[2] The application in question followed on 21.01.2025. The trial court dismissed it on the reasoning that the plaint disclosed no cause of action against the proposed defendants, that the petitioner, in substance, sought a declaration of ownership between two rival claimants, and that its remedy, if any, lay in a suit of interpleader under section 88 CPC. The revisional court held that the petitioner had produced no document of title and therefore could not be treated as a proper party, and that the proposed defendants had not themselves applied to be joined.

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[2] Written statement of respondent No.7, Annexure "F", pages 51 to 55.

5. Learned counsel for the petitioner contends that the Authority claims the very land in suit, that no effective decree can be passed in its absence, and that both the courts below applied the wrong test.

6. Learned Assistant Advocate General, relying on the chronological statement of the Mukhtiarkar, which the Deputy Commissioner and the Assistant Commissioner, Kashmore, have adopted[3], contends that the petitioner is in unauthorised occupation of Government estate land, that the claim of the Authority over the land in the petitioner's occupation is incorrect, and that the application was brought only to prolong a suit which had reached the stage of the defendants' evidence.

7. Heard. Record perused.

8. The petitioner has already availed the remedy of revision, and this petition cannot operate as a further revision. The constitutional jurisdiction is not a substitute for appeal or revision, and interference is the exception.[4] However, the exception is attracted where the courts below have applied a wrong legal test to the question before them, and a failure of justice has resulted. An order on an application under Order I Rule 10 CPC is open to correction on that footing; in ***Abdul Aziz***, the High Court, in its constitutional jurisdiction, set aside the appellate order and restored the order of the trial court impleading a party, and the Supreme Court declined to interfere.[5]

9. Under Order I Rule 10(2) CPC, the court may, at any stage of the proceedings, either upon or without the application of either party, add any person who ought to have been joined, or whose presence before the court may be necessary to enable it to adjudicate effectively and completely upon

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[3] Affidavit in support of the application, Annexure "D", page 39, paragraphs 3 and 6.

[4] Chronological statement of respondent No.7, adopted by respondents No.5 and 6 through their statements filed in this petition.

[5] *Arif Fareed v. Bibi Sara* 2023 SCMR 413.

and settle all the questions involved in the suit. A necessary party is one in whose absence no effective and binding decree can be passed, whereas a proper party is one whose presence is required so that all questions arising in the suit are decided, and separate actions on the same controversy are avoided.[6] The object of the rule is to bring on record all persons who are parties to the dispute relating to the subject matter, so that the dispute is determined in their presence at one time, without protraction or multiplicity of proceedings.[7] The discretion is to be exercised liberally and not in a narrow or pedantic manner, particularly where a person is likely to be affected by the judgment.[8]

10. The answer lies in the pleadings of the official respondents themselves. On their showing, Survey No.430 measures 11-35 acres, of which 03-12 acres are allotted to and mutated in favour of the Authority, and about 09-00 acres are with the petitioner. If 09-00 acres out of 11-35 acres are in the petitioner's occupation, only 02-35 acres remain outside it; therefore, the allotment of 03-12 acres in favour of the Authority cannot lie wholly outside the land held by the petitioner. The Authority, on the other hand, claims that the land in the petitioner's control is part of a notified katchi abadi, a claim which the Revenue Department disputes. Two public bodies thus hold rival positions over the very land in suit. The suit assails orders whereby the whole survey number was returned to the State and seeks to restrain the petitioner's dispossession; it cannot be decided without touching the notified allotment and entry No.309 in favour of the Authority. The Authority is a body corporate under the Sindh Katchi Abadis Act, 1987, distinct from the Province, which is before the trial court through its Revenue Department. A decree passed in its absence would not bind it, and an

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[6] *Abdul Aziz v. All Pakistan Clerks Association* 2025 SCMR 515.
[7] *Muhammad Arif v. District and Sessions Judge, Sialkot* 2011 SCMR 1591.
[8] *Province of the Punjab v. Muhammad Akram* 2023 SCMR 755.

injunction against the revenue functionaries alone would leave the Authority free to act upon its own claim, which is precisely the multiplicity the rule is meant to prevent. In ***Muhammad Siddique*** [9], the Supreme Court held that where entries or public documents relating to immovable property are in question, the public functionaries concerned should be joined under Order I Rule 10(2) CPC, since their absence prejudices their right to defend their acts and does not enable the court to decide the matter effectively and completely. The Authority and the department under which it functions are at the least proper parties[10] to the suit.

11. The trial court tested the application against the plaint as it stood. That is not the test. Sub-rule (4) of Rule 10 provides that where a defendant is added, the plaint shall, unless the court otherwise directs, be amended as may be necessary; the absence of a pleaded case against a person whose interest surfaced during the suit is no ground to refuse his joinder. Reliance on section 88 CPC was misplaced, as a suit of interpleader lies only at the instance of a person who claims no interest in the property other than for charges or costs, whereas the petitioner asserts a possessory interest of his own. The revisional court, in turn, enquired whether the petitioner had title so as to be a proper party. The petitioner was already before the trial court as plaintiff; the question was whether the proposed defendants were to be joined. Whether the petitioner has any right in the suit land is the very matter to be tried, and it could not be decided on an application under Order I Rule 10 CPC. The decisions relied upon by the revisional court concern strangers seeking to intervene against the wishes of the plaintiff, which is the converse of the present case, where the plaintiff, being dominus litis, itself seeks the addition. It was also not material that the proposed defendants had not applied, for the rule permits addition without an

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[9] *Abdul Aziz* (n.6 above).
[10] *Muhammad Siddique v. Noor Bibi* 2020 SCMR 483.

application by either party. Both the impugned orders, therefore, rest on a misapplication of Order I Rule 10(2) and (4) CPC and cannot be sustained.

12. The objection of delay is not without substance. The allotment in favour of the Authority was pleaded in the written statement filed in March 2023, while the application was moved in January 2025. The rule, however, permits addition at any stage, and delay does not dispense with the presence of a party without whom the controversy cannot be completely adjudicated. Nothing in this order touches the merits. The respondents' case that the petitioner is in unauthorised occupation of Government land, and every question of limitation as against the added defendants under Order I Rule 10(5) CPC read with section 22 of the Limitation Act, 1908, and all objections as to maintainability, shall remain open for decision by the trial court.

13. For the foregoing reasons, this petition is **allowed**. The impugned orders are set aside, and C.M.A. No. 29 of 2025 stands allowed. The petitioner shall file an amended title and an amended plaint, confined to what the impleadment necessitates, within fifteen days. The trial court shall summon the added defendants, receive their written statements, and regulate further proceedings in accordance with law; the evidence already recorded shall stand, subject to such rights as the law affords to the added defendants. The suit shall be decided expeditiously, preferably within six months of receipt of this order.

JUDGE

Manzoor