Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

CP No.D-6721 of 2017

(Munawar Zaman v. the Province of Sindh and 04 others)

Date	Order with signature of Judge

Before:

Mr. Justice Riazat Ali Sahar
Mr. Justice Ali Haider 'Ada'

1. For orders on CMA No.729/2019
2. For hearing of main case

Date of hearing & order: 19.10.2026

Mr. Afaq Akhtar, advocate for the petitioner
Mr. M. Yasin, advocate for the respondent No.5
Mr. Abdul Jalil Zubedi, Additional Advocate General Sindh

ORDER

Riazat Ali Sahar, J. Through this petition filed under Article 199 of the Constitution, the petitioner seeks directions to respondents No.2 and 3 to implement the Masjid Committee's decision dated 24.08.2016 and hand over vacant possession of shop No.7, Jamia Masjid Market, Makli, Thatta and to restrain respondent No.3 from pressurizing him or influencing the Committee to execute a fresh agreement with Ramesh Kumar; and for any other relief.

2. The petitioner's case is that he is tenant of the shop, having taken over the tenancy from Haji Jaffar in 2003 with the Committee's consent. By agreement dated 01.06.2014 he gave half of the shop to Utam Parkash for one year, but possession was not returned and the keys were later found with Ramesh Kumar. The Committee, chaired by respondent No.2, directed Ramesh Kumar on 24.08.2016 to vacate by 24.10.2016. He did not comply and instead filed C.P. No.D-5774 of 2016, which was dismissed on 13.12.2016. The petitioner says respondents No.2 and 3 have since failed to enforce the decision.

3. We have heard learned counsel for the parties and perused the record.

4. By the petitioner's own admission in paragraph 2, Jamia Masjid Makli is not the property of the Auqaf Department, and its affairs are run by a Committee chaired by the Deputy Commissioner in consultation with the Imam, the President of the District Bar Association and a senior journalist. No statute, rule or notification has been shown under which this Committee was constituted or empowered to adjudicate tenancy disputes, order

eviction, or have its orders enforced through the police. The Deputy Commissioner's chairmanship does not make it a statutory body, nor are its decisions acts in connection with the affairs of the Federation or a Province under Article 199. A writ of mandamus cannot issue to enforce the decision of a non-statutory body.

5. The dispute is essentially a private one over a sub-tenancy and possession, involving disputed questions of facts, whether Ramesh Kumar is a trespasser or a lawful sub-tenant. That cannot be determined in constitutional jurisdiction without evidence. The petitioner holds no decree or order of a competent court or statutory authority for eviction. The dismissal of C.P. No.D-5774 of 2016 decided nothing about title or possession and gave the petitioner no enforceable right. Delivery of possession is for the Rent Controller or Civil Court, and neither the police nor the executive can be directed to evict a person on the strength of a private committee's decision. The petitioner has an efficacious alternate remedy, and the bare assertion in paragraph 10 that none exists is unfounded. Article 199 of the Constitution cannot be used as a substitute for a suit for possession.

6. The allegation that respondent No.3 threatened to execute a fresh agreement with Ramesh Kumar is vague, with no particulars and no supporting material. Whether the Committee enters into any agreement is a matter of its internal management, and a direction to respondent No.3 to "act in accordance with law" would be superfluous.

7. The petition is, in substance, an attempt to obtain possession of a shop by writ and to press district officers into using police force without the sanction of any court. It is misconceived and an abuse of process.

8. The petition is accordingly ***dismissed*** along with pending application(s). The petitioner remains at liberty to approach the competent forum in accordance with law, and this order shall not prejudice the merits of any such proceedings.

JUDGE

JUDGE

Nadir*