

IN THE HIGH COURT OF SINDH KARACHI

CP No.S-782 of 2025

(Malik Muhammad Younus and 2 others v. Malik Muhammad Kamran and others)

Date of hearing and order: 03.12.2025

Mr. Mushtaq Ahmed Joyia, advocate for the petitioner

ORDER

Nisar Ahmed Bhanbhro, J. The petitioner filed a Suit for Cancellation of documents, Partition, Possession and Permanent Injunction before the Court of learned Senior Civil Judge-1 Karachi East, which was returned vide order dated 12.03.2025 by invoking the powers under Order VII Rule 10 of the Code of Civil Procedure, 1908, on the ground that the matter pertains to the Cooperative Societies and the Court so constituted under the Sindh Cooperative Societies Act, 2020, was competent to try the same.

2. On return of the plaint, the petitioner again presented Suit before the Special Court constituted for the purpose of trial of the dispute relating to the societies. The Special Court for Cooperative Societies Karachi Division vide order dated 29.03.2025 passed in Society Suit No. Nil/2025 again returned the plaint by making the following observations:

“Coming back to the suit brought by the plaintiff, I am of the considered opinion that since the question of the declaration to the effect that the suit property was owned by deceased Mst. Rabia Bibi, production of the original file/documents of the suit property, partition of the suit property, transfer of suit property in the names of legal heirs, handing over of possession, cancellation of bogus documents and Injunction is involved, which does not fall within the jurisdiction of Section 117 or Section 73 of the Act, 2020 and falls within the jurisdiction of the ordinary Civil Court in the light of the said Order dated 02-11-2024 of the Honorable High Court of Sindh, it would be appropriate for the plaintiff to submit the plaint before the Court having the jurisdiction. Hence, the plaint along with annexures presented by the plaintiff is hereby returned under Order VII Rule 10 of CPC in the above terms. Office is directed to return the plaint along with annexures to the plaintiff as per law for presenting the same before the competent Court of law having the jurisdiction of the matter.”

3. The Revision was preferred before the Court of learned District Judge Karachi East, which was assigned to the VIth Additional District Judge Karachi East, which too declined maintaining the orders passed by the Society Tribunal.

4. Heard arguments. I have carefully perused the record and gone through orders passed by both Courts below. Since the issue involved in the present lis pertains to a private dispute and Society had no role in it, therefore, the Special Court for Cooperative Societies Karachi Division has rightly returned the plaint, whereas the Court of ordinary jurisdiction viz. learned Senior Civil Judge-1 Karachi East, failed to exercise its jurisdiction.

5. Since this is a case which does not affect the rights of any party as the matter has to be decided on merits, therefore, his purpose to be decided at this stage. It is ordinary Civil Court which has powers under the law to adjudicate the issue, which prima facie is between the private parties and Society has got no role or interest in the property under dispute. Learned AAG, who is present in other cases, waives notice of this petition and concedes to the above legal position and submits that the order 12.03.2025 passed by learned Senior Civil Judge-1 Karachi East, is set aside and the matter is returned back for trial in accordance with the law, then the purpose of this petition would be served.

6. Accordingly, in view of the above, order dated 12.03.2025 passed in Civil Suit No.Nil of 2025 by learned Senior Civil Judge-1 Karachi East, whereby the plaint of the Suit was returned in terms of Order VII Rule 10 of CPC is hereby set aside. Consequently, this petition is *disposed of* with direction to the Court of learned Senior Civil Judge-1 Karachi East or any other Court having jurisdiction, to entertain the Suit of the petitioner and decide the same on merits in accordance with the law.

JUDGE