

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Constitution Petition No. D- 498 of 2026
(Sarfraz Ali Memon vs. The Sindh Small Industries Corporation
and others)

Before:-
Mr. Justice Amjad Ali Bohio,
Mr. Justice Ali Haider 'Ada'.

Hearing of the case

1. For orders on office objections
2. For orders on CMA No.2030/2026
3. For orders on CMA No.2031/2026
4. For the hearing of the main case.

06.05.2026.

Mr. Muhammad Ali Napar, Advocate for the Petitioner.

Ali Haider 'Ada', J:- Through this constitutional petition, the petitioner has challenged the impugned notice issued by the Anti-Encroachment Force, Sukkur Division under Section 3(1) of the Sindh Public Property (Removal of Encroachment) Act, 2010 on the ground that the petitioner is a lawful lessee and in lawful possession of the property in question by virtue of allotment order, therefore, the issuance of the impugned notice by the respondents is illegal, without lawful authority and of no legal effect.

2. Learned counsel for the petitioner has placed reliance upon the defence material and contended that the notice issued by the Anti-Encroachment Force, Sukkur Division, is void ab initio and without jurisdiction, as the petitioner possesses lawful title and legal character over the property in question. Learned counsel has placed on record a copy of a letter dated 02.10.2025 under the cover of his statement made today before this Court.

3. Heard learned counsel and perused the material available on record. Relevant provisions of law have also been examined with due care.

4. It is by now a settled principle of law that where the law prescribes a particular manner for doing a thing, the same is required to be done strictly in that manner and not otherwise. The maxim “**Communi observantia non est recedendum**” fully applies in such circumstances. Reliance in this regard may be placed upon *Jeehand v. The State*, 2025 SCMR 923.

5. The mechanism under the Sindh Public Property (Removal of Encroachment) Act, 2010 has specifically been provided under Section 3 thereof, whereby the competent authority/forum is empowered to issue notice to an alleged encroacher for eviction/removal of encroachment. The said provision also safeguards the right of hearing and submission of reply/explanation by the affected party. Furthermore, Section 4 of the Act provides a statutory remedy of review against any adverse order passed under the law.

6. In the present matter, no material has been placed before this Court demonstrating that the entire statutory mechanism has already been exhausted by the petitioner. The principal grievance of the petitioner at this stage merely relates to the issuance of notice under the statute. In such circumstances, the proper course available to the petitioner is to submit his reply/explanation before the competent authority and place all relevant documents/material in support of his claim.

7. It is a settled proposition of law that where an adequate and efficacious alternate remedy is available under the relevant statute, constitutional jurisdiction under Article 199 of the Constitution ordinarily should not be invoked unless exceptional circumstances, jurisdictional defect, mala fide, or violation of fundamental rights are demonstrated. No such exceptional circumstance has been pointed out in the present case, warranting interference by this Court at this premature stage. Reliance in this regard is placed upon the judgments

reported as **Indus Trading and Contracting Company v. Collector of Customs (Preventive), Karachi and others (2016 SCMR 842)**; **President, All Pakistan Women Association, Peshawar Cantt. v. Muhammad Akbar Awan and others (2020 SCMR 260)**; **Commissioner Inland Revenue and others v. Jahangir Khan Tareen and others (2022 SCMR 92)**; and **Executive Director (P&GS), State Life, Principal Office Karachi and others v. Muhammad Nisar, Area Manager, State Life Corporation of Pakistan, Peshawar Zone (2025 SCMR 249)**.

8. In view of the foregoing facts and circumstances, the instant constitutional petition, being not maintainable at this stage, is hereby dismissed along with pending application(s).

JUDGE

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