

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA

Constitutional Petition No. S-333 of 2026.
(Touqeer Ahmed vs P.O.Sindh and others)

Date	Order with signature of Judge
	1. For orders on office objection-A. 2. For orders on MA No.2235/2024. E/A. 3. For hearing of main case.

05.10.2026.

Mr. Zuhaib Ali Siddiqui, Advocate for the petitioner.

The petitioner has assailed the order dated 07.09.2024 passed by the learned 3rd Additional District Judge, Shikarpur, whereby the order passed by the learned trial Court was upheld. Being aggrieved, the petitioner has challenged both the orders passed by the learned Courts below.

The crux of the matter is that respondent No.4 instituted a suit for declaration, possession, compensation and permanent injunction against the petitioner and others, asserting that the property bearing C.S. No.10/108/1, measuring 46-5 square yards, situated at Shaikh Mohalla, Shikarpur, was illegally occupied by the petitioner and others. He, therefore, sought declaration of his exclusive ownership as well as recovery of possession thereof.

During the pendency of the suit, the petitioner, being defendant, filed an application under Order VII, Rule 11, C.P.C., contending that the said survey number constituted joint and unpartitioned property and, therefore, the suit was not maintainable. The learned trial Court, vide order dated 12.06.2024, dismissed the said application, which order was subsequently upheld by the learned Revisional Court. Hence, the present petition.

Learned counsel for the petitioner has, at the outset, filed certain documents along with a statement, which are taken on record. He further submits that the property is joint and that, pursuant to demarcation, each co-sharer has been identified with his respective share and possession. Despite this, respondent No.4/plaintiff, with mala fide intention, instituted the civil suit, which, according to learned counsel, is barred under the law.

Heard and perused.

Upon perusal of the record, it transpires that respondent No.4 claims ownership to the extent of his due share, which fact is also admitted by the petitioner's side. Whether such share is in the possession of the petitioner or any other person is a factual controversy which can only be determined after recording and appreciation of evidence. Such disputed questions of fact cannot be adjudicated upon in proceedings under Order VII, Rule 11, C.P.C., as the scope of the said provision does not extend to determination of factual controversies requiring evidence.

It is also settled that the jurisdiction under Order VII, Rule 11, C.P.C. cannot be invoked to reject only a particular part or portion of the plaint, as partial or piecemeal rejection of a plaint is not contemplated by the scheme of the said provision. Reliance is placed upon **President, Zarai Taraqati Bank Limited, Head Office, Islamabad v. Kishwar Khan (2022 SCMR 1598)**.

In view of the foregoing facts and circumstances, the impugned order passed by the learned Revisional Court, whereby the order of the learned trial Court was maintained, does not call for any interference. Consequently, the instant Constitutional Petition is hereby dismissed in *limine*.

JUDGE