

IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-3307 of 2025

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Muhammad Osman Ali Hadi

[Ahmed Brothers & another Vs. Province of Sindh & others]

Date of hearing : 12.09.2025
Date of decision : 12.09.2025
Petitioner No.1 : Through Mr. Fahad Ali Hashmi, Advocate.
Petitioner No.2 : Through M/s. Asim Iqbal and Farmanullah Khan, Advocates.
Respondents No.2-3. : Through Mr. Khurram Gahayas, Advocate.
Respondent No. 4 : Through Mr. Kafeel Ahmed Abbasi, DAG.

ORDER

Muhammad Iqbal Kalhoro, J: Petitioner runs a Petrol Pump is aggrieved by a Letter dated 28.04.2025¹ whereby, the Karachi Metropolitan Corporation (“KMC”) has sealed his Petrol Pump and has required him to submit the documents to prove his ownership thereof. The record shows that previously when such action was taken against him, he had filed a Suit No.03/2018² for Declaration and Permanent Injunction, in which on 01.01.2018 a restraining order was passed directing the Defendants - KMC (in the Suit) not to take any coercive action against the Plaintiff (present Petitioner)³. The Suit is still pending before the Trial Court and the order is still in field. The record further shows that previously also various notices were given to the Petitioner for submitting documents, which he complied with accordingly to establish his ownership of the plot on which the Petrol Pump is situated. Being satisfied, Anti-Encroachment Department of KMC had exonerated the Petitioner on 08.03.2018 as all his documents were verified and notice against him therefore, was withdrawn.⁴

2. On the other hand, the claim of the KMC is that the Petitioner has encroached upon the land of KMC which is situated in front of Petrol Pump and which is a part of China Park.

¹ Available at Page 165 of the File

² Available at Pages 135-145 of the File

³ Available at Page 149 of the File

⁴ Available at Page 155 of the File

3. When we asked the learned counsel that in the past in terms of the some enquiry, when Anti-Encroachment Department of KMC has exonerated the Petitioner, how the impugned action is warranted. KMC's counsel stated that the land department of KMC is a separate wing and as per Resolution No.6072, reflected in the statement of information provided by the Commissioner of Sindh vide a Letter No.0/469 dated 16.06.1926, the subject land belongs to KMC and not to Ministry of Housing and Works which has purportedly allotted this land to the Petitioner. The documents submitted by the Petitioner on the other hand show that the Petitioner is in possession of the land since it was allotted by the Ministry of Housing and Works vide Lease Deed dated 30.09.2009⁵ and these documents purportedly have been verified. The question whether the Petitioner is owner of the land as claimed by him or is in possession of any excess land that belongs to KMC can be determined only through evidence in the Suit where parties are at liberty to raise such pleas and defend them.

4. Since the Suit is pending between the parties on the very same subject matter wherein the stay order is operating, we direct the KMC not to take any coercive action against the Petitioner till the decision of the Suit. However, if KMC is still of a view that Petitioner has encroached on some of its land, it may issue a proper notice and give such information as well as in the Suit and seek directions from the learned Trial Court for taking action against the Petitioner in accordance with law. The notice shall contain the relevant documents including Map, copy of Resolution, the KMC is relying upon.

This Constitution Petition stands disposed of accordingly in above terms.

JUDGE

JUDGE

Karachi.
Dated: 12.09.2025.
M. Khan

⁵ Available at Page 55 of the File