

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.

C.P No. D-5782 of 2025
(Muhammad Ibrahim & others v Deputy Commissioner Malir & others)

Dated	Order with signature of Judge.
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Before:
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:- 12.02.2026.

Ms. Amna Usman, Advocate for Petitioners.
Mr. Abdul Jalil, A.A.G.
Mr. Hameedullah Rind, Mukhtiarkar, Ibrahim Hyderi.
M/s. Yar Muhammad Bozdar [DS-I], Mushtaque Ali [SO Legal] and
Aktar Ali Mastoi [Law Officer], LU, BOR, SINDH,
Mr. Mansoor Ali Panhwar, Advocate for Respondents.
Mr. Hammad Jokhio, Mukhtiarkar, Gothabad Malir.
Mr. Waheed Abdul Ghumro, City Surveyor, on behalf of the
Director Settlement, Government of Sindh.

Adnan-ul-Karim Memon, J Petitioners have filed the instant Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, seeking the following relief:

I. Declare that the Impugned Order dated 15-11-2025 passed by the Learned Tribunal in Suit No. 07 of 2024 is illegal, void, without lawful authority, and of no legal effect.

II. Set aside the Impugned Order dated 15-11-2025 passed by the Learned Anti-Encroachment Tribunal, at Karachi, and direct the Learned Anti-Encroachment Tribunal to implead Petitioners as Defendants in Suit No. 07 of 2024 and hear the matter afresh.

III. Suspend all proceedings in Suit No. 07 of 2024 during the pendency of this Petition.

ALTERNATIVELY:

IV. Declare that the Subject land (Survey Nos. 118 & 119, Na-Class 90) is private property and that the Learned Anti-Encroachment Tribunal has no jurisdiction over it;

V. Direct the Revenue Authorities i.e., Respondents No.1 to No.6, to place the complete record of rights, demarcation reports, Form-VII, and grant orders before this Court.

VI. Grant such further, additional, or alternative relief, as this Honourable Court may deem fit and proper.

2. The Petitioners challenge the Impugned Order dated 15.11.2025 of the Learned Anti-Encroachment Tribunal, Karachi, in Suit No.07 of 2024 (Syeda Shireen & Others v. Deputy Commissioner, Malir & Others), which dismissed their Intervener Application under Order 1, Rule 10(2), CPC. Respondent Nos.16–30 had filed the suit under Sections 13 & 14 of the Sindh Public Property (Removal of Encroachment) Act, 2010, claiming certain plots in Haji Peer Shah Goth, Deh Khanto, Malir as public property and seeking restraining orders against Respondents No.1–15. A stay order dated 14.03.2024 restrained the defendants from dispossessing the plaintiffs.

3. The Petitioners claim to be lawful owners of the disputed land as heirs of the late Mr. Hamza, to whom the Government of Sindh granted 10 acres of agricultural land (Survey Nos.118 & 119, Na-Class No.90) on 05.01.1973, recorded in Form-VII of the Revenue Record. Prior disputes over the same land are pending in Suit Nos.22 & 232 of 1993. They sought to intervene to place ownership documents, prior litigation, and land records on the record, which Respondents No.16–30 allegedly concealed. The Tribunal dismissed the application, holding that pending litigation elsewhere did not make the Petitioners necessary parties.

4. Learned counsel argued that the Tribunal had no jurisdiction over private property lawfully owned by the Petitioners, and proceeding without them violated natural justice. Under Order 1, Rule 10(2), CPC, they are necessary parties, as non-joinder would cause irreparable prejudice. She contended that Respondents No.16–30 acted in malafide, concealing prior orders, pending suits, and demarcation reports.

5. Learned counsel for the private respondents supported the impugned order and prayed for dismissal of the petition.

6. learned AAG assisted by Mukhtiarkar, Sub Division Ibrahim Hyderi, submitted revenue record details confirming ownership: the land was granted to Hamza S/o Haji Ibrahim (Form LR-XIII), mortgaged to Agricultural Development Bank, and later purchased by Uzair Aziz Dauood S/o Aziz A. Dauood (Registered Deed No.5121, 09.05.1992). He submitted that as per record the Petitioners are prima facie necessary parties, as such the petition may be disposed of by allowing them to become party on the proceedings.

7. The aforesaid stance has been refuted by the learned counsel for the private parties.

8. We have heard the learned counsel for the parties and perused the record with their assistance.

9. In the instant case, the Petitioners claimed that they are lawful owners of the disputed property and that the Anti-Encroachment Tribunal, by declining their Intervener Application under Order 1, Rule 10(2), CPC, committed material irregularity. The core question was whether the Petitioners are necessary or proper parties to the suit and whether the Tribunal had jurisdiction to proceed in their absence.

10. Under Order 1, Rule 10(2), CPC, the Court has discretionary power to add persons who: “ought to have been joined as parties”, or whose presence is necessary to enable the Court to effectually and completely adjudicate and settle all questions involved in the suit.” A necessary party is one *without whose presence no effective decree can be passed*, and a proper party is one *whose presence aids complete adjudication though not strictly indispensable*.

11. Here, the Petitioners have presented prima facie revenue record and title evidence showing their legal interest in the subject land (grant, mortgage history, and subsequent registered sale). As such, any determination of the alleged public nature of the land and the orders for removal of encroachment would directly affect the Petitioners’ substantive legal rights and title. Consequently, their absence would frustrate the Tribunal’s ability to settle *all questions involved in the proceedings* fully and effectively.

12. The Supreme Court of Pakistan has repeatedly held that Court’s discretion under Order 1, Rule 10(2) must be exercised keeping in view the facts and circumstances so as to ensure justice and complete adjudication, and that when a party’s legal rights are likely to be affected by the proceedings, impleadment is justified as a necessary or proper party. It is well settled that the Court has wide judicial discretion to add parties whose absence may render a decree ineffective or non-binding.

13. Further, principles of natural justice and fair adjudication require that a person whose title and proprietary rights are in direct issue must be heard; failing which the suit may result in collateral and multiplicity of litigation. The Tribunal’s refusal to allow Petitioners’ intervention, despite their clear prima facie title evidence, would effectively preclude adjudication of all matters in controversy between the true title holders and the plaintiffs/respondents.

14. Based on the foregoing settled principles, the Petitioners were prima facie necessary parties to the suit under Order 1, Rule 10(2), CPC. The learned Tribunal’s order dismissing their application was therefore unsustainable in law.

15. Accordingly, the Impugned Order dated 15.11.2025 is set aside. The Petitioners shall be impleaded as parties in Suit No.07 of 2024 before the Anti-Encroachment Tribunal, Karachi, and the proceedings shall continue in accordance with law within a reasonable time period.

16. This petition stands disposed of in the above terms along with pending application(s).

JUDGE

JUDGE

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