

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-1779 of 2025
(Muhammad Ayub versus Province of Sindh & others)

Date	Order with signature of Judge
	Mr. Justice Adnan-ul-Karim Memon Mr. Justice Zulfiqar Ali Sangi
Date of hearing and order:- 02.02.2026	

M/s. Anwer Kamal & Ms. Mahjabeen Rajput advocates for the petitioner
Mr. Ali Safdar Depar AAG

ORDER

Adnan-ul-Karim Memon, J. – The petitioner Muhammad Ayub has filed the captioned Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer.

- a. *To set aside the impugned order dated 123.02.2025, passed by the learned trial court.*
- b. *To allow the applicants' suit to be heard on merits before the learned Vth Senior Civil Judge (West) at Karachi.*

2. The Petitioners are aggrieved by the order dated 13.02.2025 passed by the learned Vth Senior Civil Judge (West), Karachi (Special Court for Societies), whereby the plaint was returned on the premise that the dispute does not fall within the ambit of the Sindh Co-operative Societies Act, 2020.

3. It is the case of the Petitioners that they are registered members of Respondent No.4, Al-Hamra Cooperative Housing Society Ltd., and have paid the entire consideration for their respective plots. The Respondent Society itself confirmed clearance of all dues and, through its letter dated 06.01.2011, assured handing over possession on 15.07.2011. Despite this, no land/plots have been allotted to them to date, and the society's land has instead been subjected to encroachments due to gross mismanagement.

4. Learned counsel for the petitioner submits that the subsequent demand raised in 2023 by the respondent society for an additional amount of Rs.18,597,000/-, on account of mismanagement, is illegal, unjustified, and cannot be fastened upon the Petitioners, who had already fully discharged their financial obligations. It is added that such conduct amounts to misrepresentation, breach of trust, and violation of statutory duties imposed upon cooperative societies. It is argued that the dispute squarely falls within the domain of the Sindh Co-operative Societies Act, 2020, particularly Sections 55, 57, 58, 73, and 117, as it concerns rights and obligations between the members and the cooperative society. He emphasized that the learned trial court failed to appreciate that the Special Court

for Societies had exclusive jurisdiction to adjudicate such disputes, and therefore, the return of the plaint on jurisdictional grounds suffers from a clear misapplication of law. Learned counsel further submits that the Petitioners have also served statutory legal notices under Section 115 of the Act, yet no action was taken by the concerned authorities. It is urged that the continued failure to allot land/plots, coupled with unlawful demands and inaction, has caused severe mental anguish, financial loss, and irreparable harm to the Petitioners, besides violating their constitutional and proprietary right to property under Articles 23 and 24 of the Constitution. It is finally submitted that the impugned order is illegal, arbitrary, and unsustainable in law, and if allowed to stand, would perpetuate grave injustice to the genuine allottees. The Petitioners, therefore, humbly pray that the impugned order dated 13.02.2025 be set aside and the suit be directed to be heard and decided on merits by the learned Special Court for Societies. He prayed to allow this petition.

5. Learned AAG submits that the learned trial court, through the impugned order, while discussing the scope of jurisdiction of the Special Court for Cooperative Societies, laid down detailed guidelines given by this Court in paragraphs 39 and 49 of the order. It was held that disputes relating to offences under Section 117 and disputes relating to rights and obligations regulated by the Sindh Co-operative Societies Act, 2020, particularly under Section 73, are mandatorily triable by the Special Court for Cooperative Societies, whereas all other matters fall within the jurisdiction of ordinary civil or criminal courts. He prayed to dismiss the petition.

6. The learned trial court, while returning the plaint, observed that in disputes “touching the business” of a cooperative society, issuance of a statutory notice under Section 115 of the Act is mandatory, subject to recognized exceptions. Although it acknowledged that matters arising under Chapter VIII are exclusively triable by the Cooperative Court, the trial court nevertheless held that the reliefs sought, declaration of allotment, possession, and injunction, do not fall within Sections 73 or 117 of the Act and thus lie before an ordinary civil court. On this basis, the plaint was returned for presentation before a court of competent jurisdiction.

7. However, at this stage, learned counsel for the petitioner submitted that this conclusion is self-contradictory and legally unsustainable, as the dispute squarely concerns the rights and obligations of members vis-à-vis the cooperative society under the Sindh Co-operative Societies Act, 2020, and therefore falls within the exclusive jurisdiction of the Special Court for Cooperative Societies.

8. We have heard the learned counsel for the parties present in Court and have carefully examined the record, the impugned order dated 13.02.2025, and the relevant provisions of the Sindh Co-operative Societies Act, 2020, as well as the order passed by this Court on the subject issue.

9. The Sindh Co-operative Societies Act, 2020, consolidates and amends the law relating to cooperative societies in Sindh and repeals the Cooperative Societies Act, 1925, by virtue of Section 119. Under Section 73 of the Act, all disputes touching the business of a society (except disciplinary and liquidation matters) are triable exclusively by the Cooperative Court. In exercise of powers under Section 118, the Government framed the Sindh Cooperative Societies Rules, 2020, wherein Rule 53 categorizes such disputes and mandates their reference to the Cooperative Court established under Section 117, with a statutory right of appeal to the Court of Sindh within 30 days. Section 117 envisages the establishment of Special Courts for Cooperative Societies for expeditious disposal of disputes and offences, with pending matters transferred thereto and decided within a fixed timeframe. When read harmoniously with Rule 53, it is noticed that civil disputes relating to cooperative societies also fall within the exclusive jurisdiction of the Cooperative Court. The scheme marks a significant departure from the repealed 1925 Act, under which disputes were resolved through arbitration before the Registrar, followed by multiple appellate and revisional forums, resulting in prolonged litigation. The 2020 Act provides a direct, specialized, and expeditious remedy before the Cooperative Court, with a single statutory appeal to this Court. However, the Supreme Court in the recent judgment in the case of Muhammad Dawood Vs Mst. Sakeena Farooque @ Aziza noticed that although certain procedural aspects, including categorization of disputes and the right of appeal, are provided in the Rules rather than the Act, and minor drafting anomalies exist in the Act, the legislative intent to oust ordinary civil jurisdiction and confer exclusive authority on Cooperative Courts remains unambiguous.

10. From the above, it is inferred that the Sindh Co-operative Societies Act, 2020, and the Sindh Cooperative Societies Rules, 2020 constitute a complete and self-contained framework governing cooperative societies in Sindh. The Act establishes Special Cooperative Courts to ensure expeditious adjudication, mandates day-to-day trials, and requires disposal within 120 days. Section 116 expressly bars the jurisdiction of ordinary civil courts and prohibits the interference or grant of injunctions in matters entrusted to authorities under the Act. Under Section 73 of the Act, read with Rule 53 of the Rules, all disputes touching the business or affairs of a cooperative society, except disciplinary or liquidation matters, fall within the exclusive jurisdiction of the Cooperative Court, including disputes between members, the society, its committee, officers, or even

non-members where authorized. Civil courts lack jurisdiction over such disputes. Any aggrieved party has a statutory right of appeal to this Court within 30 days from the impugned decision. The jurisdiction of the Special Court is determined by the substance of the dispute, not the form of relief.

11. The dispute relates to the petitioners' membership, payment for plot allotment, and non-delivery of possession, which directly concerns the core business of the society. Under Section 9 CPC, civil court jurisdiction is excluded where expressly or impliedly barred. The Supreme Court in *Abbassia Cooperative Bank* (PLD 1997 SC 3) held that such a bar may be lifted only where the authority lacks jurisdiction, acts mala fide, or violates natural justice. Section 115 of the Sindh Cooperative Societies Act, 2020 operates as a conditional ouster clause, making statutory notice to the Registrar mandatory. In the absence of any established exception, the dispute squarely falls within the exclusive jurisdiction of the Cooperative Court under the Act of 2020, rendering the impugned view of the special court legally unsustainable.

12. The mere fact that the Petitioners have sought reliefs of declaration, possession, and injunction does not oust the jurisdiction of the Special Court, as the form of relief is not determinative of jurisdiction. It is now well settled that where the dispute arises out of actions purportedly taken under the cooperative law and affects the rights of members, such matters must be examined within the statutory framework, and civil courts cannot assume jurisdiction merely based on the relief claimed. Similarly, it has been consistently held that where a statute creates rights and also provides a specific forum for redressal, recourse must be had to that forum, and ordinary civil jurisdiction stands impliedly barred in terms of Section 9 of CPC. It is also settled now that acts done without lawful authority, mala fide exercise of power, or violations of statutory duties do not fall outside statutory jurisdiction merely because declaratory relief is sought. The conclusion drawn by the learned trial court that the dispute falls within the jurisdiction of an ordinary civil court is therefore self-contradictory, legally unsustainable, and amounts to a misapplication of settled law. Returning the plaint in such circumstances defeats the very purpose of establishing Special Courts for Cooperative Societies and results in the denial of substantive justice. The trial Court must hear the case a fresh and decide as per the law on the subject in its true perspective as in the present case, the Petitioners have not only pleaded violation of statutory duties under Sections 55, 57, 58, 73, and 117 of the Act, but have also alleged mismanagement, unlawful financial demands, and failure to perform obligations imposed by law. They have further complied with the requirement of Section 115 by serving statutory notices, to which no meaningful response was given. These pleadings *prima facie* bring the case squarely within the recognized

exceptions even otherwise acknowledged by the learned trial court itself, as discussed supra.

13. In view of the foregoing discussion, we are of the considered view that the impugned order dated 13.02.2025 suffers from patent illegality and jurisdictional error. The dispute raised by the Petitioners clearly relates to the rights and obligations of members vis-à-vis a cooperative housing society and is governed by the Sindh Co-operative Societies Act, 2020. The Special Court for Cooperative Societies has exclusive jurisdiction to adjudicate the matter, subject to all just exceptions as provided under the law, and the trial Court has to decide in accordance with the law as discussed in the preceding paragraph.

14. Accordingly, this Constitutional Petition is allowed. The impugned order dated 13.02.2025 is set aside, and the plaint is restored to its original number to be heard and decided by the trial Court. The learned Vth Senior Civil Judge (West), Karachi (Special Court for Societies), is directed to proceed with the suit and decide the same on merits, in accordance with law, and take a fresh decision after affording due opportunity of hearing to all parties. However, within a reasonable time.

JUDGE

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