

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-6089 of 2025
(Abdul Majeed versus Jawed Hameed & 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

Mr. Sardar Abdul Hameed advocate for the petitioner

M/s. Umair Usman & Shahmeer Memon advocate for respondents No. 1 to 6

Mr. Ali Safdar Depar AAG, along with Ms. Humaira Jatoi, advocate.

ORDER

Adnan-ul-Karim Memon, J. – The petitioner Abdul Majeed 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 admit the appeal for hearing and after hearing set aside the impugned judgment and decree dated 7th December, 2023, and remanded the case to the learned trial court for decision of the same in accordance with law and facts, not on the technicalities.*
- b. *To call R&P of Society Suit No.1287/2021 from the Court of 5th Senior Civil Judge (West) at Karachi / Special Court of Co-Operative Societies Karachi, after hearing both parties set-aside impugned judgment and decree dated 7th December 2023, and the suit may be dismissed.*
- c. *Award cost to the petitioner.*

2. Learned counsel for the petitioner contended that the impugned Judgment and Decree dated 07.12.2023, passed by the learned V-Senior Civil Judge, Karachi (West) / Special Court for Co-operative Societies, is illegal, void, perverse, and liable to be set aside. It was argued that the learned trial Court failed to properly appreciate the evidence on record and denied the petitioner a fair opportunity of hearing, particularly by closing the petitioner's side without allowing complete cross-examination and by dismissing applications for recall, production of documents, and hastily summoning of witnesses. Learned counsel further submitted that the General Power of Attorney was validly executed by the deceased during her lifetime and was never lawfully revoked in accordance with law, as mere publication in a newspaper does not constitute a valid revocation. Consequently, the sale deed executed on the basis of such Power of Attorney was lawful and could not have been cancelled. It was also argued that the learned trial Court misread the evidence, ignored material contradictions in the plaintiffs' case, and passed the judgment without applying proper judicial mind. Learned counsel submitted that the private respondents filed the subject civil suit seeking a declaration that the acts and conduct of the petitioner and others were illegal,

unlawful, and malafide, aimed at usurping Plot No.301, Category B-1, measuring 520 square yards, situated in Sindh Baloch Cooperative Housing Society Limited, Karachi East, left by their deceased mother, Mst. Jamila Khatoon. They further sought a declaration that the General Power of Attorney dated 01-02-2018 stood cancelled upon its publication in the daily *Aman* on 01-11-2018 and ceased to have legal effect upon the death of Mst. Jamila Khatoon on 11-01-2020, rendering the registered sale deed dated 25-06-2019 in favour of the petitioner Abdul Majeed null, void ab initio, and without lawful sanctity. Cancellation of the sale deed, declaration of their entitlement to due shares, and transfer/mutation of the suit property in their favour as legal heirs were also prayed for. An excerpt of the relief sought in the Society Suit No.1287 of 2021 (Old Civil Suit No.625 of 2020) is as follows: -

a) To declare the acts of Defendants Nos. 1 and 2 to be illegal based upon malafide in order to usurp the entire property and to deprive the Plaintiffs of their due share in the Suit Property, viz. Plot bearing No.301 category B-1, measuring 520 Square yards, situated in Sindh Baloch CHS, Naiclass No.166 and 210, Deh Sofara, Tapo Gadap, Karachi East, left by deceased Mst. Jamila Khatoon;

b) To declare that on publication in the Newspaper Daily Aman, [Karachi] dated 1st November 2018, about the cancellation/revocation and particularly on the death of Mst. Jamila Khatoon, on the 11th January, 2020, the General power of attorney registered under No.292 dated 01-02-2018, Sub-Registrar-II, Gulshan-e-Iqbal, executed by Jamila Khatoon in respect of the Suit Property, and lost its legal validity. Also declare the registered sale deed RD# 4965 dated 25-06-2019 executed by the Defendant No.1 in favor of the Defendant No.2 Abdul Majeed on the basis of cancelled/revoked and invalid general power of attorney, to be null, void ab initio, having no legal sanctity in the eyes of law;

c) To cancel and direct the Defendant No.4 to treat as cancelled the registered sale deed bearing RD# 4965 dated 25-06-2019 in respect of Suit Property executed by the Defendant No.1 Amjad Hameed in favor of the Defendant No.2 Abdul Majeed on the basis of cancelled/revoked and legally invalid generally power of attorney registered under No.292 dated 01-02-2018, Sub-Registrar-II, Gulshan-e-Iqbal, Karachi;

d) Declaration to the effect that the Plaintiffs are entitled to get their due shares in property bearing No.301 category B-1, measuring 520 Square yards situated in Sindh Baloch Cooperative Housing Society Limited, Naiclass No.166 and 210, Deh Sofara, Tapo Gadap, Karachi East, left by their deceased mother, Mst. Jamila Khatoon;

e) To direct the Defendant No.3 to transfer/mutate said bearing No.301 category B-1, measuring 520 Square yards situated in Sindh Baloch CHS Naiclass No.166 and 210, Deh Sofara, Tapo Gadap, Karachi, in favor of the Plaintiffs and the Defendant No.1 being the only surviving legal heirs of deceased Mst. Jamila Khatoon;

f) Permanent and mandatory injunction may be granted to the Plaintiffs directing that the Defendants particularly may not dispose the Plaintiffs nor transfer sell mortgaged or dispose of the said Plot bearing No.301 category B-1, measuring 520 Square yards situated in Sindh Baloch Cooperative Housing Society Limited, Naiclass No.166 and 210, Deh Sofara, Tapo Gadap, Karachi East in any manner whatsoever to any other person(s) through themselves, their agents men attorney or any

law enforcing agency directly or indirectly expressly or impliedly in any manner without due process of law;

3. It was lastly contended that the learned Special Court lacked jurisdiction to entertain the suit, which was initially tried by a court of plenary jurisdiction and later transferred pursuant to the judgment of this Court. In support of his contention, he relied upon the cases of Pakistan Medical and Dental Council & others v Muhammad Fahad Malik & others **2018 SCMR 1956**, Muhammad Fahad Malik v Pakistan Medical and Dental Council & others **2018 PLD 75**, Gokaraju Rangaraju Etc. v State of Andhra Pradesh **1981 AIR 1473**, Jawaid Iqbal v Khawaja Muhammad Arif **1999 SCMR 13**, Abdul Karim Brohi v The State **2005 PLD 498**, Lt. Col. Farzan dali & others v Province of West Pakistan & others **1970 PLD 98**, Atlas Autos Limited and others v National Industrial Relations Commissions Islamabad and others **1999 PLD 362** and Abdul Salam Qureshi and another's v Judge Special Court of Banking for Sindh and another **1984 PLD 462**. He prayed to allow this petition by remitting the matter to the trial court for decision after providing an opportunity of hearing to the petitioner.

4. Conversely, learned AAG assisted by the learned counsel for the respondents supported the impugned Judgment and Decree and argued that the Co-operative Society Court was fully competent to adjudicate the matter. It was submitted that under Sections 73 and 117 of the Sindh Co-operative Societies Act, 2020, read with Rule 53 of the Sindh Co-operative Societies Rules, 2020, the Special Court is empowered under the Sindh Co-operative Societies Act and Rules to decide civil disputes relating to immovable property situated within a registered co-operative society. Reliance was placed on authoritative judgments, including Muhammad Dawood v. Mst. Sakeena Farooque alias Aziza **2025 SCMR 1229**, and Naseem Fatima Zaidi v. Government of Sindh & others, passed in Miscellaneous. Appeal No.52 of 2025, wherein the jurisdiction of Co-operative Society Courts over civil disputes was upheld.

5. Learned counsel for the private respondents also argued that the suit was initially instituted before a competent civil Court and was later transferred to the Special Court dealing with society matters, pursuant to a statutory notification and order passed by this Court in the case of Syed Muhammad Kazim, as discussed *supra*, without any fault on the part of the respondents. Therefore, the respondents cannot be made to suffer due to an act of the Court, if any, in view of the settled principle *actus curiae neminem gravabit*. It was also contended that the petitioner, having participated in the proceedings without objection and led evidence, is estopped from challenging the jurisdiction of the Special Court dealing with society suits as per law, after an adverse decision. Additionally, the impugned judgment and decree are protected by the de facto doctrine, as it was passed by a Civil Judge exercising judicial functions under statutory authority and law.

Learned counsel thus prayed that the captioned petition be dismissed and the impugned Judgment and Decree dated 07.12.2023, passed by the learned V-Senior Civil Judge, Karachi (West) / Special Court for Co-operative Societies, is illegal, and be upheld. In support of his contention, he relied upon the cases of Muhammad Anis v Messer Pak Gulf Leasing Company Limited **2025 CLC 1552**, Faqir Muhammad v Khursheed Bibi and others **2024 SCMR 107**, The State v Asif Adil and others **1997 SCMR 209**, Bashir Ahmed Anjum v Province of Punjab & others **2025 SCMR 206**, Abid Jan v Ministry of Defence Islamabad & others **2023 SCMR 1451**, and Homoeo Dr. Asma Noreen Syed v Government of Sindh & others **2022 SCMR 1546**. He lastly prayed to dismiss this petition.

6. After hearing learned counsel for the parties and perusal of the record and case law . It is noted that the impugned judgment and decree dated 07.12.2023 were passed after recording evidence.

7. The trial Court found that the deceased Mst. Jamila Khatoon was the lawful lessee of the suit property and had executed a General Power of Attorney, which she validly revoked during her lifetime through public notice dated 01.11.2018 and intimation to the concerned Sub-Registrar. The revocation was duly communicated and within the knowledge of the attorney. Despite such revocation, and even after the death of the principal on 11.01.2019, a conveyance dated was executed in favour of a close fiduciary relation. The power of attorney had already stood terminated under Section 201 of the Contract Act, 1872 and was not coupled with interest. The evidence further established that no proof of payment of sale consideration was produced, a fact admitted during cross-examination, and the fiduciary relationship stood proved. In view of the admitted revocation, termination of authority, absence of consideration, and settled law prohibiting transfer by an attorney to close relations without specific authorization, the trial Court rightly held the conveyance deed to be null, void ab initio, and of no legal effect. Upon the death of Mst. Jamila Khatoon, inheritance opened immediately, entitling all her legal heirs to their respective shares under Muslim Personal Law. An excerpt of the judgment and decree is reproduced as under:-

ISSUE No. 1

The Plaintiffs instituted the present Suit for ‘Declaration, Cancellation of registered Sale Deed and Permanent Injunction’ against the Defendants. The plaintiffs are claiming to be legal heirs of the deceased Mst. Jamila Khatoon and seeking cancellation of the Conveyance Deed registered in the name of Defendant No.3 after revocation of the general power of attorney. The suit of the Plaintiffs is of civil nature. Thus, the Suit of the plaintiffs is maintainable under Sections 39, 42 & 54, of the Specific Relief Act, 1877 read with Section 9, of the Code of Civil Procedure, 1908. However, the Defendants Nos. 1 & 2 challenged the jurisdiction of this

Special Court in application under Order VII Rule 10, C.P.C, which was dismissed vide order dated 04.11.2022. It would be expedient to reproduce the paragraphs Nos. 4 & 7 of the order dated 04.11.2022 as under:-

“ Bare reading of the aforesaid prayer clauses clearly shows that the plaintiffs have sought relief in prayer clause (e) of this Suit against the Defendant No.3/Society. The Defendant No.1 is also claiming himself to be the owner of the Suit Property and member of the Society. The plaintiffs have also mentioned the cause of action and dispute against the Defendant No.1 in the plaint, who is alleged to be member of the Society. The Plaintiffs have also claimed that their other/ predecessor-in-interest is owner of the Suit Property and member of the Society. The documents annexed with the plaint including the registered Indenture of Sub-Lease show that membership No. 1801 was allocated to the plaintiff's mother. Thus, the plaintiffs are claiming through the member of the society. On the contrary the Defendant No.2 is also claiming to be lawful owner of the Suit Property having derived his title from the mother of the plaintiffs namely Mst. Jamila Khatoon (member of the Society)through attorney, the Defendant No.1. In such circumstances, the dispute and controversy between the current member of the Society and the persons (Plaintiffs) claiming through past member of the Society i.e. Mst. Jamila Khatoon is to be decided by this Special Court in accordance with Section 73, of the Sindh Cooperative Societies Act, 2020 read with Rule 53, of the Sindh Cooperative Societies Rules 2020.”

“7. This provision would apply if dispute touches the business of societies and arises between the persons classified in clauses (a) to (e). They all relate to disputes regarding internal affairs of the Society in between its members or of members with the Society or its committee. It is crystal clear that the dispute and controversy between the members/ past member and the persons claiming through members/past members of the Society is to be adjudicated by this Court in accordance with the provisions of Section 73, of the Sindh Cooperative Societies Act, 2020 read with Rule 53, of the Sindh Cooperative Societies Rules 2020. In these circumstances, this Court has jurisdiction to entertain the present Suit.”

The Defendants Nos. 1 & 2 have not challenged the order dated 04.11.2022, which attained finality for all legal intents, implications and purposes. Nothing has been brought on record to show that the suit of the plaintiff is either expressly or impliedly barred by any law for the time being in force. Consequently, the issue No.1 is replied in negative.

ISSUE NO.2

It is the version of the plaintiffs that the plaintiffs and the Defendant No.1 are legal heirs of the deceased Mst. Jamila Khatoon, who was mother of the Plaintiffs and the Defendant No.1. The deceased Mst. Jamila Khatoon was owner/lessee of the Suit Property i.e. Plot bearing No. 301, Category B-1, admeasuring 520 square yards, situated at Sinch Baloch Cooperative Housing Society Limited, Na-Class No. 166 & 210, Deh Safoora, Tappo Gadap, Karachi by virtue of Indenture of Sub-Lease vide registered No. 162, dated 11.01.2012 copied by means of microfilming system vide M.F Roll No. U-10362/7606, dated 15.02.2012. It has also come on record that the Defendant No.1 obtained “General Power of Attorney” from Mst. Jamila Khatoon widow of Abdul Hameed Khan vide registered No. 292, dated 01.02.2018 and Digital scanning vide No. 292/SRO: 18/ Doc Type-42, dated 08.05.2018 in respect of the Suit Property. However, the deceased Jamila Khatoon revoked the said General Power of

Attorney during her lifetime vide Public Notice published in newspaper Amn Karachi on 01.11.2018. the deceased Jamila Khatoon had also sent intimation regarding revocation of the General power of attorney through her counsel vide letter dated 01.11.2018 to the Sub-Registrar-II, Gulshan-e-Iqbal Town, Karachi. Once a publication in newspaper was issued and the concerned Sub-Registrar was intimated about revocation of the general power of attorney, which was also in the knowledge of the Defendant No.1/attorney. The Defendant No.2 is brother of father-in-law of the Defendant No.1. In such circumstances, it was incumbent upon the attorney to seek special permission from the principal (deceased Jamila Khatoon) to convey the Suit Property especially in the name of his close fiduciary relation belonging to his kith and kin (the Defendant No.2).

Law does not require cancellation of power of attorney through a formal legal document such as deed cancellation on stamp paper and registered instrument. The power of attorney stands revoked the moment it is communicated to the attorney through any mode. Reference may be made to the Case of **Muhammad Ali Razi Khan v Muhammad Ali Zaki Khan and others (2007 MLD 54.)** It is matter of record that the attorney in this matter i.e. Defendant No.1 was duly communicated with the revocation through publication in newspaper as well as letter to the convened Sub-Registrar to which he admitted during his cross-examination as under:-

“It is correct to suggest that the General Power of Attorney executed by my mother namely Jamila Khatoon was revoked by her on 01.11.2018. It is correct to suggest that my mother called all the family members and disclosed about revocation of General Power of Attorney in presence of all the family members. It is correct to suggest that after revocation of Power of Attorney, any documents prepared later-on on the basis of Power of Attorney has no value in the eyes of law. It is correct to suggest that the Conveyance Deed executed on the basis of Power of Attorney on 06.12.2018 has also no value in the eyes of law. It is correct to suggest that the Conveyance Deed was forcibly obtained from me after harassment and taking me and my family members’ hostage. It is correct to suggest that the sale consideration of Rs. 30,00,000/- was not paid to me in respect of the Suit Property. It is correct to suggest that at the time of execution of Power of Attorney my mother Jamila Khatoon was not present before the concerned Sub-Registrar. It is correct to suggest that the Sub-Registrar was also in collusion with the Defendant No.2 while executing and registering the Conveyance Deed. It is correct to suggest that the entire fraudulent transaction was made with the connivance of my father in law namely Muhammad Nazeer, Abdul Majeed (Defendant No.2), Fawad Nazeer and Muhammad Faisal.”

In case of **Raza Munir and another v Mst. Sardar Bibi and 3 others (2005 SCMR 1315)**, it was held by the Honorable Supreme Court of Pakistan that. “The High Court has correctly proceeded in the matter. It has noticed that the factum of revocation in the manner stated in the plaint has not been questioned by the petitioners. This finding of the High Court has not been challenged before us. The issue of notice of cancellation as well as the appearance of the proclamation in the newspaper is again not denied. In all fairness, therefore, the petitioners ought to have been more vigilant as the proclamation in the newspaper puts the public-at-large on guard. Learned counsel also urges that after execution of the sale-deed

the attorney colluded with the plaintiff. There is nothing on record to substantiate the claim.”

In case of Mst. Naila Kausar and another v Sardar Muhammad Bakhsh and others (2016 SCMR 1781), it was held by the Honorable Supreme Court of Pakistan that. “It is settled that an attorney cannot utilize the powers conferred upon him to transfer the property to himself or to his kith and kin without special and specific consent and permission of principal”. In case of Jamil Akhtar and others v Las Baba and others (PLD 2003 Supreme Court 494), it was held by the Honorable Supreme Court of Pakistan that: “It is a settled principle of law that whenever a general attorney transfers the property of his principal in his even name or in the name of his close fiduciary relations, he has to take special permission from the principal.”

The most important aspect of the case is that the Conveyance Deed in the name of Defendant No.2 in respect of the suit Property was executed vide registered No. 4965 dated 25.06.2019 after revocation of the power of attorney by the deceased owner/lessee Jamila Khatoon through publication in newspaper dated 1.11.2018 and intimation dated 01.11.2018 to the concerned Sub-Registrar. Meanwhile the lessee Jamila Khatoon died on 11.01.2019 and the General Power of Attorney executed by the deceased stood terminated on the death of the principal, which was not even coupled with interest. Section 201, of the Contract Act, 1872 provides. “An agency is terminated by the principal revoking his authority, or by the agent renouncing the business of the agency; or by the business of the agency being completed; by either the principal or agent dying or becoming of unsound mind; or by the principal being adjudicated an insolvent under the provisions of any Act for the time being in force for the relief of insolvent debtors.” In case of Mst. Hajyani Bar Bibi through L.R v Mrs. Rehana Afzal Ali Khan and others (PLD 2014 Supreme Court 794), it was held by the Honorable Supreme Court of Pakistan that; “ We find ourselves unable to agree with this contention of the learned Advocate Supreme court for the petitioner because it is not specifically mentioned in the general power of attorney that the attorney Khairudin had made any payment to late Zohra Bai and from the power of attorney it is not established that Khairuddin the attorney was appointed on the basis of recommendation of the Vendee of the agreement to sell dated 20.05.194 and therefore just by the mention of the sale agreement already executed in favor of the husband of the petitioner and his brother in the General Power of Attorney does not convert this general power of attorney into a power of attorney where the agent has an interest in the subject matter as specified in section 202 of the Contract Act, 1872 and therefore in accordance with section 201 of the Contract Act the power of attorney will stand terminated on the death of the principal and therefore the sub-power of attorney issued by attorney Khairuddin is also invalid and of no legal effect as his power had already stood terminated on the death of the principal.”

It is also matter of record that the Defendants Nos. 1 & 2 have failed to produce a single document along with the written statement or affidavits-in-evidence to show that the alleged sale consideration of Rs, 34,35,000/- was either paid to the principal/lessee Jamila Khatoon or to the attorney, the Defendant No.1. The defendant No.1 has denied to have received the alleged sale consideration from the defendant No.2. In such circumstances, the Conveyance Deed in the name of the Defendant No.2 in respect

of the Suit Property on the basis of revoked and terminated power of attorney, which too without proof in respect of payment of sale consideration to the principle is null, void ab- initio, of no legal effect and liable to be cancelled. Consequently, the Issue No.2 is replied in affirmative.

ISSUE No.3

It is proved on record that the deceased Jamila Khatoon revoked the General Power of Attorney executed by her during her lifetime vide Public Notice published in newspaper Amn Karachi on 01.11.2018. The deceased Jamila Khatoon had also sent intimation regarding revocation of the General Power of attorney through her counsel vide letter dated 01.11.2018 to the Sub-Registrar-II, Gulshan-e-Iqbal Town, Karachi. The publication in newspaper was issued and the convened Sub-Registrar was intimated about revocation of the general power of attorney, which was also in the knowledge of the Defendant No.1/attorney. The Defendant No.2 is brother of father-in-law of the Defendant No.1. In such circumstances, it was incumbent upon the attorney to seek special permission to convey the Suit Property especially in the name of his close fiduciary relation belonging to his kith and kin (the Defendant NO.2). The admissions on the part of the defendant NO.1/attorney have already been reproduced in the reasons of the Issue No.2. However, the Defendant No.2 has also admitted during his cross-examination as under:-

“It is correct to suggest that I am contractor of paints. I am still working. My income is Rs. 50,000/- to 100,000/- per month but it might vary from time to time. I am residing in a rental house situated in Surjani Town, Karachi. I have sold out my house in order to repay the loan. It is incorrect to suggest that in the year 2019 I did not have money to purchase anything. It is correct to suggest that I have not produced any documentary proof to show that the sale consideration was paid by me in respect of the Suit Property. The Defendant No.1 is my caste fellow. It is correct to suggest that the Defendant No.1 is son-in-law of Nazeer Ahmed. I have interaction with Nazeer Ahmed. I do not remember the name of wife of Defendant No.1. It is correct to suggest that the name of wife of the Defendant No.1 is Nida and they had married about 10/12 years ago.

The Defendant No.2 has admitted during cross-examination that he has not produced documentary proof to show that the sale consideration was paid by him in respect of the Suit Property. The fiduciary relationship between the Defendants Nos. 1 & 2 is also admitted. It is also proved on record that the Defendant No.2 belongs to the kith and kin of the attorney/Defendant No.1. The case laws relied upon by the learned counsel for the Defendant No.2 (with due respect) are distinguishable from the facts and circumstances of this Suit.

In such circumstances, the conveyance Deed in the name of Defendant No.2 executed by the Defendant No.1 on the basis of revoked and invalid power of attorney is proved to be null, void ab-initio, of no legal effect and liable to be cancelled. Consequently, the Issue No.3 is replied in affirmative.

ISSUE NO.4

It is matter of record that the deceased Jamila Khatoon had died on 11.01.2019 leaving behind the Plaintiffs and the Defendant No.1 as her surviving legal heirs; therefore, all the legal heirs (surviving at the time of death of the deceased) are entitled for their respective shares in accordance with Muslim Personal Law. It is also the established law that inheritance under Muslim Personal Law/ Muhammadan Law opens just after the death of a Muslim. They all by such inheritance/acquisition become co-sharer/co-owner in the estate left by the deceased Muslim under Sharia. The shares of each heir/residuary are fixed and deceased Muslim under Sharia. The shares of each heir/residuary are fixed and determined in Sharia. Our law so far developed in the country is that every co-sharer/co-owner is presumed to be in possession of every inch of the joint property unless the same is partitioned. Reference may be made to the Case of Faizullah and others v Dilawar Hussain and others (2022 CMR 1647). For the reasons set-forth in the findings and discussion in the reasons of the Issues Nos. 1 to 3, I have come to the conclusion that the plaintiffs are entitled for the reliefs claimed in prayer clauses. Consequently, the Issue No.4 is replied in affirmative.

ISSUE NO.5

For the reasons set-forth here-in-above, the Suit of the Plaintiffs is hereby decreed in the following manner:-

- (i) *It is hereby declared that the deceased Jamila Khatoon widow of Abdul Hameed revoked the General Power of Attorney during her lifetime executed by her in respect of the suit Property i.e. Plot No. 301 category B-1, measuring 520 Square yards, situated in Sindh Baloch Cooperative Housing Society Limited, Naiclass No.166 and 120, Deh safora Tapo Gadap, Karachi through publication in newspaper Daily Amn, Karachi dated 01.11.2018 and through Legal Notice dated 1.11.2013 addressed to the Defendant No.4 about the revocation of the General Power of Attorney;*
- (ii) *The Plaintiffs and he Defendant No.1 being the legal heirs of the deceased Jamila Khatoon are entitled for their due share in the Suit Property in accordance with Muslim Personal Law and the Suit Property shall be transferred in the names of all he legal heirs who were/are surviving at the time of death of the deceased Jamila Khatoon.*
- (iii) *It is hereby declared that the revoked and invalid General power of attorney executed by the deceased Jamila Khatoon in the name of Defendant No.1 and Conveyance Deed in the name of Defendant No.2 in respect of the Suit Property executed by the Defendant No.1 on the basis of revoked and invalid general power of attorney are null, void ab-initio, of no legal effect and are liable to be cancelled;*
- (iv) *The Defendants Nos. 1 & 2 are hereby directed to deliver up/surrender the General Power of attorney executed in favor of the Defendant No.1 and Conveyance Deed in the name of Defendant No.2 before this Court for cancellation and also submit the original file of the Suit Property before the Nazir with immediate effect;*
- (v) *The Defendants or any other person acting on their behalf are hereby restrained from creating third party interst in the Suit Property and also restrained from parting with the possession of the Suit Report to their person;*
- (vi) *The Defendant No.3 is hereby directed to maintain its proper record in accordance with the observations of this judgment;*

(vii) *Let such decree be prepared in accordance with law. The parties are left to bear their own costs.*

8. The present dispute arose from a suit filed by the private respondents seeking a declaration, cancellation of a registered sale deed, and a permanent injunction, claiming to be the legal heirs of deceased Mst. Jamila Khatoon and asserting the revocation of the General Power of Attorney. The suit, though initially instituted as a civil matter under the Specific Relief Act, read with Section 9 CPC, was transferred from the court of plenary jurisdiction to the Special Court constituted under the Sindh Cooperative Societies Act, 2020, as it related to a cooperative society dispute. The learned Special Court, after hearing the parties, decreed the suit vide judgment and decree dated 07.12.2023.

9. At this stage, learned counsel for the petitioner pointed out that the petitioner primarily challenged the judgment and decree on the grounds of alleged procedural irregularities and denial of opportunity for cross-examination. However, the record shows that the petitioner actively participated in the proceedings without objection to the jurisdiction of the trial Court, and the trial was conducted under statutory authority. However, at a later stage, Petitioner challenged the jurisdiction of the Special Court under Order VII Rule 10, CPC, which was dismissed vide Order dated 04.11.2022. He also took a plea that the judgment and decree were illegal on the grounds of alleged procedural irregularities and denial of opportunity for cross-examination. However, the record shows that the petitioner actively participated in the proceedings without objection to the jurisdiction of the trial Court, and the trial was conducted under statutory authority. The petitioner thereafter filed Miscellaneous Appeal No.10 of 2024, during which the learned Single Judge framed the issue of jurisdiction and applicability of the *de facto* doctrine, and subsequently converted the appeal into a constitutional petition under Article 199 of the Constitution. At this stage, the petitioner was called upon to clarify whether he had challenged the order passed by the learned Single Judge before the competent appellate forum with regard to the conversion of the Appeal into constitution petition, or whether he was merely pressing the objection that the Special Court lacked jurisdiction. He preferred later proposition. For reference, the relevant excerpt of the order dated 11.12.2025 is reproduced hereunder:-

“4. Now, while previously I could exercise jurisdiction to hear a lis as against an order from which no appeal lay under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 and which jurisdiction was concurrent with the hearing of a Miscellaneous Appeal, after the passing of 27th Amendment to the Constitution of the Islamic Republic of Pakistan, 1973, this position has been altered and as such the jurisdiction to entertain a Petition, under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, now vests only with the Constitutional Bench constituted under Article 202A of the Constitution of the Islamic Republic of Pakistan, 1973 and which cannot be exercised by this Court.

5. In the circumstances and so as not to prejudice the parties to this lis, I am inclined in exercise of my inherent jurisdiction, to convert all of this Appeal into Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 and which should be renumbered by the office and thereafter forthwith fixed before the Constitution Bench having jurisdiction to entertain the same. Order accordingly.”

10. This Court has consistently held, including in Miscellaneous Appeal Nos.52, 61 and 93 of 2025, relying upon the judgment of the Supreme Court in Muhammad Dawood, and in Syed Muhammad Kazim Advocate supra that disputes concerning the affairs and property of cooperative societies fall within the exclusive jurisdiction of the Special Court.

11. Elaborating further on the jurisdictional issue, the Sindh Co-operative Societies Act, 2020, repeals the 1925 Act and consolidates the law governing cooperative societies in Sindh. Section 73 confers exclusive jurisdiction upon the Cooperative Court in respect of all disputes touching the business of a society, while Rule 53 of the Sindh Co-operative Societies Rules, 2020 mandates reference of such disputes to the Cooperative Court established under Section 117. The Act further bars interference by ordinary civil courts under Section 116, with a statutory right of appeal provided to this Court. The Supreme Court in Muhammad Dawood supra affirmed that the legislative intent is to vest exclusive jurisdiction in the Special/Cooperative Courts, and that minor procedural irregularities do not detract from such jurisdiction. Although Section 9 CPC excludes civil court jurisdiction where expressly or impliedly barred, subject to limited exceptions recognized in Abbassia Cooperative Bank (PLD 1997 SC 3), the nature of the relief claimed, such as declaration or cancellation, by itself does not determine jurisdiction. In view of Sections 73 and 117 of the Sindh Co-operative Societies Act, 2020 read with Rule 53 of the Rules, and consistent with the judgments in Muhammad Dawood (supra), Syed Muhammad Kazim supra and Naseem Fatima Zaidi v. Government of Sindh (M.A. 52/2025), it stands settled that civil disputes relating to immovable property within a registered cooperative society fall within the exclusive jurisdiction of the Cooperative/Special Court. It is also well-settled that proceedings conducted by a Court under statutory authority are protected under the de facto doctrine. As observed in Pakistan Medical and Dental Council v. Muhammad Fahad Malik 2018 SCMR 1956, actions performed by a de facto officer, even if a later defect in jurisdiction is alleged, remain valid to protect parties and public interest. Accordingly, the question of jurisdiction stands conclusively resolved in terms of the ratio of the aforesaid decisions.

12. In the present case, the trial was conducted by a learned V-Senior Civil Judge, Karachi (West) / Special Court for Co-operative Societies exercising judicial powers under statutory notification; therefore, the impugned Judgment

and Decree are valid, binding, and enforceable, subject to the final say of the appellate court.

13. In view of the above, the petitioner has failed to make out any legal or factual ground to set aside the impugned judgment and decree. The petition is thus devoid of merit and liable to be dismissed.

14. The petition is accordingly dismissed along with pending application(s), if any. The impugned Judgment and Decree dated 07.12.2023 passed by the learned V-Senior Civil Judge, Karachi (West) / Special Court for Co-operative Societies, is hereby upheld with no order as to costs.

JUDGE

JUDGE

Shafi