

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Constitution Petition No.D-204 of 2026

Date	Order with signature of Judge
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Before;
Mr. Justice Adnan Iqbal Chaudhry;
Mr. Justice Abdul Hamid Bhurgri.

Petitioner : Riaz Ahmed son of Ghulam Qasim Samo,
through Mr. Mukhtiar Ali Khokhar,
Advocate.

Respondents : P.O Sindh and others.

Date of Hearing : ***12.03.2026.***

Date of Order : ***12.03.2026.***

ORDER

Abdul Hamid Bhurgri, J.- The case of petitioner, as set out in the instant constitutional petition, is that his father was the Mutawali of the Dargah of Bhambhan Shah and was also cultivating the adjoining agricultural land, which, according to the petitioner, is the ancestral property of the petitioner and his family. It is further stated that his father mysteriously disappeared in the year 1996, and thereafter the private respondents allegedly illegally occupied the property of the Dargah, the Imam Bargah, and the adjoining land belonging to the petitioner's family. The petitioner submits that he approached the official authorities for redressal of his grievance and certain findings were allegedly recorded in favour of the petitioner's family; however, despite such findings, the private respondents did not vacate the alleged illegal occupation and continued to use their influence to avoid lawful action. It is further contended that about fifteen days ago, the private respondents also occupied the Imam Bargah plot with the intention to sell the same to strangers and to start illegal construction thereon. The petitioner has, therefore, prayed that the official respondents be directed to conduct a fair inquiry and get the alleged illegal occupation over the Imam Bargah vacated.

2. We have heard learned counsel for the petitioner and have perused the material available on record. On the very face of it, the petitioner has raised a factual controversy regarding title and possession of the property with the private respondents. It is now well settled that

constitutional petitions involving disputed questions of title and possession cannot ordinarily be entertained, as such matters require determination on the basis of evidence. In the present case, determination of the petitioner's entitlement necessarily involves resolution of disputed and controversial questions of fact, which cannot be adjudicated upon in exercise of constitutional jurisdiction under Article 199 of the Constitution without recording evidence.

3. It is a settled principle of law that constitutional jurisdiction under Article 199 of the Constitution is discretionary in nature and is exercised only where a clear, undisputed, and enforceable legal right is established. Where the very existence of such right is disputed and its determination depends upon resolution of controversial questions of fact requiring recording of evidence, constitutional jurisdiction cannot be invoked as a substitute for regular proceedings before a competent forum. Reliance in this regard may be placed upon ***Mst. Kaniz Fatima through legal heirs v. Muhammad Salim and others (2001 SCMR 1493) and Anjuman Fruit Arhtian and others v. Deputy Commissioner, Faisalabad and others (2011 SCMR 279)***.

4. Consequently, this Court is of the considered view that the instant constitutional petition is not maintainable under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. Accordingly, the instant constitutional petition is dismissed in *limine* as not maintainable, along with pending applications, if any. However, the petitioner shall be at liberty to avail appropriate remedy before the competent forum strictly in accordance with law.

JUDGE

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