

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

*Constitutional Petition No.D-1305 of 2025
(Haji Muhammad Fazul Siddiqui v. Province of Sindh and others)*

Before:-
***Mr. Justice Amjad Ali Bohio,
Mr. Justice Ali Haider "Ada"***

Petitioner : Haji Muhammad Fazul Siddiqui,
Through Mr. Nazir Ahmed
Junejo, Advocate

Respondents : Province of Sindh and others,
through Mr. Zulfiqar Ali Naich,
Assistant Advocate General,
Sindh, along with Altaf Ahmed
Chachar, Deputy Commissioner
Khairpur.
Darya Khan Chandio,
Assistant Commissioner, Kotdiji.
Syed Shafquat Shah,
Mukhtiarkar, Kotdiji.
Mureed Hussain Leghari,
Supervising Tapedar.

Date of Hearing : 12.03.2026

Date of Decision : 12.03.2026

ORDER

Ali Haider 'Ada' J. Through this petition, the petitioner has mainly contended that the respondents/revenue functionaries are under an obligation to issue a sale certificate in respect of his landed property. It appears from the record that earlier, the petitioner had approached this Court by filing C.P No. D-1305 of 2025. The said petition was disposed of on 13.08.2025 with the observation that the petitioner may avail the remedy available before the Public Grievance Redressal Cell. Thereafter, the petitioner approached the said forum, and the Deputy Commissioner, Khairpur, made correspondence with the Assistant Commissioner, Kot Diji, regarding the grievance of the petitioner. The revenue functionaries are in attendance, and respondent Nos. 1 to 4 have filed their joint para-wise comments. In their comments, it is

stated that the petitioner relies upon an order passed by the Additional Commissioner-I, Sukkur, whereby the appeal filed before the revenue forum was allowed, and the petitioner claims that his title over the property stood unclouded. However, the said order of the Additional Commissioner-I, Sukkur, was subsequently challenged before the Member, Board of Revenue. Ultimately, the Member, Board of Revenue (Judicial-II), vide order dated 05.05.2025, set aside the impugned order of the Additional Commissioner and declared the property in question as Central Government land/property. It is further stated that the petitioner has not challenged the said order before any competent forum. The Deputy Commissioner has also reported that the request of the petitioner for issuance of a sale certificate has already been declined.

2. Learned counsel for the petitioner mainly contends that the Additional Commissioner-I, Sukkur, had passed the order in favour of the petitioner; the same was wrongly set aside by the Member, Board of Revenue, who declared the property as Central Government land. He further submits that earlier in proceedings before this Court in C.P No. D-1226 of 2015, directions were issued to the Commissioner, Sukkur, to pass appropriate orders on the application of the petitioner. According to the learned counsel, the petitioner is the lawful owner of the property, and the declaration of the land as Central Government property by the revenue authorities is unlawful.

3. On the other hand, learned Assistant Advocate General, Sindh submits that the Member, Board of Revenue is a higher forum than the Additional Commissioner and in exercise of revisional powers under section 164 of the Sindh Land Revenue Act, 1967, the Member, Board of Revenue (Judicial-II) passed the impugned order which is still intact and has not been challenged by the petitioner before any competent forum. He further submits that the request for issuance of a sale certificate is misconceived, as the petitioner is fully aware that his title over the property is disputed. Once the property has been declared as Government land, the question of issuance of a sale certificate in favour of the petitioner does not arise. He therefore prays for dismissal of the application.

4. Heard learned counsel and perused the material available on record.

5. It appears from the record that the Additional Commissioner-I, Sukkur, had passed an order while exercising jurisdiction under section 161 of the Land Revenue Act. The said order was challenged by one Bakhshal, who was a respondent in the proceedings, by invoking the revisional jurisdiction under section 164 of the said Act. Under section 164, the Board of Revenue is empowered, either on its own motion or on an application, to call for the record of any case pending before or decided by a subordinate revenue officer and may pass such order as it deems appropriate after examining the legality or propriety of the impugned order. Thus, the Member, Board of Revenue, being the higher forum in the revenue hierarchy, is vested with authority to revisit, modify, set aside, or uphold the orders passed by subordinate revenue authorities. In the present case, the Member, Board of Revenue (Judicial-II), vide order dated 05.05.2025, set aside the order of the Additional Commissioner and declared the property in question as Central Government land.

6. It is an admitted position that the said order of the Member, Board of Revenue, has not been challenged by the petitioner before any competent forum and, therefore, the same has attained finality.

7. In such circumstances, the question of ownership of the property, which now stands declared as Government land by the competent revenue forum, cannot be determined by this Court in exercise of its constitutional jurisdiction. It is well settled that disputed questions of fact cannot ordinarily be resolved in constitutional jurisdiction. Reliance is placed upon the cases of **Special Secretary-II (Law and Order), Home and Tribal Affairs Department, Government of Khyber Pakhtunkhwa, Peshawar and others v. Fayyaz Dawar (2023 SCMR 1442)**, **Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and others v. Intizar Ali and others (2022 SCMR 472)**, **Province of Punjab through Secretary Communication and Works Department, Lahore through Chief Engineer (North/Central) Punjab Highway Department, Lahore v. Yasir Majeed Sheikh and others (2021**

SCMR 624) and Messrs Fateh Yarn (Pvt.) Ltd. Faisalabad v. Commissioner Inland Revenue Faisalabad and others (2021 SCMR 1133).

8. Consequently, the instant application, being devoid of merits and frivolous in nature, is hereby dismissed.

JUDGE

JUDGE