

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Const. Petition No.D-1930 of 2026.

(Ms. Rakhshanda v Member of Land Utilization BOR & others)

Date	Order with signature of Judge(s)
------	----------------------------------

Before:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Hasan Akbar

Date of hearing and Order: 21.05.2026

M/s Ali Tahir and Muhammad Hashim,
advocates for the petitioner.

Mr. Fayyaz Ahmed Memon, advocate for respondent No.6.

Mr. Abdul Jalil, Addl. A.G. Sindh a/w

Mukhtiarkar Khalid Langah.

ORDER

Adnan-ul-Karim Memon, J. – Petitioner Mst. Rakhshanda, widow of late Willayat Ali, filed the present Constitution Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking to set aside the order dated 04.03.2026 passed in Revision Application No.85 of 2025, with a direction to the respondents to decide the matter afresh after providing a proper opportunity of hearing. She also sought protection against dispossession and coercive action regarding the property in question.

2. Learned counsel for the petitioner submitted that the petitioner has remained in peaceful possession of a portion of land measuring approximately 18 x 10 feet, forming part of plot No.RC-3/35, Ranchore Line, Karachi, since the time of her late husband, who allegedly occupied the property based on lawful documents in 1974. It was contended that after his demise, the petitioner continued in possession without lawful adjudication against her rights. Counsel further argued that the eviction proceedings were initiated on the allegation that the land was an amenity plot and that the appellate order dated 01.08.2005 was passed by an authority lacking jurisdiction under the Sindh Land Revenue Act, 1967. It was further contended that the revisional authority decided the matter without providing proper hearing or departmental comments, thereby violating the principles of natural justice and the fundamental rights guaranteed under Articles 4, 9, 10-A, 23 and 24 of the Constitution.

3. Pursuant to the Court's order dated 04.05.2026, the concerned Mukhtiarkar submitted a report regarding the status of plot No.RC-3/35, with the narration that, as per the Property Register maintained in the office of Mukhtiarkar Garden, plot No. RC-3/35, measuring 11,990 square yards and held on a Government H/2 Rent Free basis, was allotted by the defunct Settlement Department to various persons. However, the name of the petitioner does not appear in the said Property Register. It is further stated that, according to the

layout plan/map issued by the defunct Deputy Settlement Commissioner, Karachi, on 11.05.1982, the land in question is reflected as a water tap

4. At this stage, learned counsel for the petitioner submits that the report submitted by the Mukhtiarkar is factually incorrect, legally misconceived, and does not reflect the actual possession and documentary history of the subject property. It is contended that mere non-mention of the petitioner's name in the Property Register cannot defeat an otherwise lawful, continuous, and settled possession extending over several decades, particularly when such possession traces back to 1974 through the petitioner's late husband based on valid and verifiable documents issued by the competent Settlement Authorities. Counsel submits that entries in the revenue record are not conclusive proof of title and cannot override settled possession, especially when no lawful eviction or declaratory proceedings have been finally adjudicated against the petitioner after due process. It is further argued that reliance on the layout plan showing the area as "water tap" is also misconceived, as such annotations are administrative in nature and cannot, by themselves, determine proprietary rights or extinguish lawful occupation already subsisting on the ground. The counsel emphasizes that no prior lawful determination has ever been made declaring the petitioner's portion to be encroachment or amenity land after affording her a proper opportunity of hearing. It is therefore submitted that the report is based on an incomplete appreciation of facts and does not address the core issue of long-standing possession and vested procedural rights of the petitioner, and as such cannot be made the sole basis for denial of protection under Article 199 of the Constitution.

5. Counsel for the respondent No.6 supported the stance of the Mukitaiakr and prayed for dismissal of the petition.

6. When confronted with the legal position of the case, both parties consented and sought the disposal of the petition with directions to the L.U Department to re-hear the petitioner and pass a speaking order within three weeks after providing a meaningful opportunity of hearing to all concerned parties.

7. In view of the foregoing facts and circumstances of the case, and without expressing any opinion on the merits of the respective claims of the parties, it appears that the controversy primarily relates to the petitioner's claim of long-standing possession over a portion of land and the respondents' reliance on revenue records and settlement documents, which allegedly do not reflect the petitioner's name.

8. It is an established principle of law that disputed questions of title and factual possession, particularly where documentary evidence is being relied upon

by both sides, require proper adjudication after providing an effective and meaningful opportunity of hearing to all concerned parties. Any decision affecting the civil rights of a person must conform to the principles of natural justice as well as the requirements of Articles 4, 10-A, 23, and 24 of the Constitution of the Islamic Republic of Pakistan, 1973.

9. In the present case, since it has been pointed out that the impugned decision was passed without complete participation of the petitioner and the report submitted by the Mukhtiarkar is also seriously disputed, it would be just, fair, and in accordance with law that the matter is reconsidered by the competent authority after re-hearing all parties and examining the entire record afresh.

10. Accordingly, by consent of the learned counsel for the parties, the instant petition is disposed of with directions to the L.U Department to re-hear the petitioner and all concerned stakeholders and pass a speaking order within three (03) weeks from receipt of this order. The authority shall ensure compliance with due process and pass a reasoned and speaking order strictly in accordance with the law.

11. It is further directed that till the decision is taken afresh, no third-party interest shall be created in respect of the subject property to protect the rights of the parties and to avoid further complications.

12. The petition, along with pending application(s), stands disposed of in the above terms.

JUDGE

JUDGE