

ORDER SHEET
THE HIGH COURT OF SINDH KARACHI
 C.P. No. D – 2882 of 2026
 (Muhammad Sarfaraz v Provincial Ombudsman Sindh & others)

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
	Before:- Mr. Justice Adnan-ul-Karim Memon Mr. Justice Adnan Iqbal Chaudhary

Date of hearing and order:-13-07-2026

Mr. Nehal Khan Lashari, Advocate for the Petitioner.
 Respondent No.3 – M. Shahid Shabbir is present in person.
 Syed Ali Ahmed Zaidi, AAG Sindh.
 SIP: Ejaz Aslam, P.S. Liaquatabad, is present in Court.

ORDER

Adnan-ul-Karim Memon, J Through the captioned petition, the petitioner has sought a declaration that respondent No.1 lacks jurisdiction to entertain or adjudicate a dispute relating to the ownership and possession of Shops No.12 and 12-A at Khalid Cloth Market, Liaquatabad, Karachi. The petitioner further seeks to declare the proceedings initiated on Complaint No. POS-9581-2025/KC, along with all consequential actions of respondents Nos.1 and 2, including his alleged dispossession from Shop No.12-A, as illegal, unlawful, unconstitutional and without lawful authority. The petitioner also prays for quashment of the aforesaid complaint and all proceedings arising therefrom, and restraint against respondent No.3 from taking any further action pursuant thereto.

2. Learned counsel for the petitioner submits that the petitioner is the lawful owner and possessor of Shop No.12-A, operating a business under the name and style of *Erum Cloth Corner* at Khalid Cloth Market, Liaquatabad, Karachi, and is a regular taxpayer of the concerned local authority. He contends that respondent No.3, after the petitioner vacated respondent No.3's adjoining shop, persistently attempted to interfere with the petitioner's business by initiating multiple legal proceedings. It is submitted that an Illegal Dispossession complaint filed by respondent No.3 was dismissed on 19.04.2024, while a subsequent civil suit was withdrawn on 03.02.2026. The petitioner also approached the SSP Complaint Cell and sought directions under Sections 22-A and 22-B, Cr.P.C., but no effective action was taken. Learned counsel further submits that respondent No.3 thereafter filed Complaint No. POS-9581-2025/KC before the Provincial Ombudsman, who allegedly assumed jurisdiction without lawful authority in a dispute relating to private property. Pursuant to the Ombudsman's notice, respondents Nos.2 and 4, in collusion with respondent No.3, allegedly demolished the petitioner's shop,

dispossessed him from Shop No.12-A, and handed over possession to respondent No.3. It is argued that the Ombudsman lacks jurisdiction to adjudicate disputes regarding ownership or possession of private property or encroachment, such matters being within the domain of the competent civil courts and statutory forums. The complaint before the Ombudsman is stated to be a result of forum shopping after respondent No.3 failed in earlier proceedings. The petitioner, having no other efficacious remedy, has invoked the constitutional jurisdiction of this Court seeking declaration that the impugned proceedings and consequential actions are without lawful authority, restoration of his possession, and quashment of Complaint No. POS-9581-2025/KC.

3. The respondent No.3, appearing in person, submits that the instant petition is not maintainable, being based on false, fabricated and misleading facts, and that the petitioner has approached this Court with unclean hands after concealing material facts. He contends that he is the lawful owner of the property, including Shop No.12, having inherited the same from his predecessors, whereas the petitioner was merely his tenant who was lawfully evicted pursuant to an order passed by the learned Rent Controller, which has attained finality. He further submits that after his eviction, the petitioner illegally occupied the open/front portion adjoining Shop No.12, obstructing access to the property, whereupon respondent No.3 approached the Anti-Encroachment Department, KMC, and subsequently the Provincial Ombudsman due to inaction by the authorities. Consequently, the alleged encroachment was lawfully removed by the competent authorities. He also argues that no shop bearing No.12-A ever existed, that the documents relied upon by the petitioner relate to a third person and do not establish any right in his favour, and that the present petition is a mala fide attempt to regain possession of the property and harass respondent No.3 through abuse of the constitutional jurisdiction of this Court. He, therefore, prays for dismissal of the petition with costs.

4. The SHO, Police Station Liaquatabad, submits that the Court's order was entrusted to the Investigation Officer, who repeatedly contacted the petitioner telephonically and directed him to appear at the police station for recording his statement. A notice was also pasted at the petitioner's shop; however, despite service and intimation, the petitioner failed to appear, stating that he would attend the proceedings before this Court. The SHO further submits that the police record reveals an earlier criminal petition filed by the petitioner before the learned District Judge, Central, Karachi, wherein a detailed report had already been submitted regarding the allegations that the petitioner's goods were removed from the shop and cloth worth Rs.10 lac was allegedly stolen within the jurisdiction of Police Station Super Market and investigation is underway.

5. We have heard the learned counsel for the petitioner, respondent No.3 and learned AAG and perused the record with their assistance.

6. Respondent No.3, while relying upon the mutation record issued by the Deputy Director Land (Revenue), Land Lease Liaquatabad, KMC, submits that Commercial Plot No.1/10, Group No. I, measuring 66.66 square yards, situated at Commercial Area, Liaquatabad, Karachi, stands duly mutated vide letter dated 21.03.2023 in the names of Mst. Seema Khan and Respondent No.3/Muhammad Shahid Shabbir Khan based on a registered Declaration of Oral Gift executed by their predecessor-in-interest. It is contended that the mutation was approved by the competent authority after payment of the prescribed transfer fee and ground rent, thereby establishing Respondent No.3's lawful title and interest in the subject property.

7. It is an admitted position that the dispute between the parties essentially pertains to the ownership, title and possession of the property in question, namely Shops No.12 and the alleged Shop No.12-A situated at Khalid Cloth Market, Liaquatabad, Karachi. Such disputed questions of title, possession and proprietary rights require recording of evidence and determination of factual controversies, which cannot conveniently be undertaken in the constitutional jurisdiction of this Court under Article 199 of the Constitution.

8. The petitioner's principal grievance is directed against the proceedings before the Provincial Ombudsman and the consequential anti-encroachment action. However, the record reflects that respondent No.3 asserts ownership on the strength of a mutation issued by the competent authority, whereas the petitioner claims an independent right over the alleged Shop No.12-A, the very existence of which is disputed by respondent No.3. The rival claims involve seriously disputed questions of fact and title, which fall within the exclusive domain of the competent Civil Court. It is well settled that constitutional jurisdiction is not intended to resolve private civil disputes involving determination of ownership, possession or title to immovable property.

9. Furthermore, the action complained of appears to have been taken by the Anti-Encroachment authorities in exercise of their statutory powers pursuant to proceedings initiated before the Provincial Ombudsman. Whether such action was justified, whether the petitioner was in lawful possession, whether the area removed constituted an encroachment, and whether respondent No.3 has a better title are all questions requiring appreciation of evidence, which cannot be adjudicated in writ proceedings.

10. It is equally settled that where disputed questions of fact are involved and an efficacious alternate remedy before the competent civil forum is available, the

extraordinary constitutional jurisdiction under Article 199 of the Constitution ought not to be invoked. The petitioner has failed to establish any violation of a fundamental right or any jurisdictional defect apparent on the face of the record warranting interference by this Court. Mere allegation that the Provincial Ombudsman lacked jurisdiction cannot, by itself, confer writ jurisdiction when adjudication of the controversy necessarily depends upon prior determination of disputed proprietary rights.

11. In these circumstances, we are of the considered view that the instant petition is not maintainable. The petitioner, if so advised, may seek redress before the competent civil forum or any other forum available under the law for adjudication of his alleged rights. Any observations made herein are tentative in nature and shall not prejudice the rights of either party before the competent forum.

12. Consequently, this constitutional petition is dismissed as being not maintainable, along with all pending applications.

JUDGE

JUDGE