

Order Sheet  
**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD**

CP No. S- 02 of 2026  
[Akhtar Hussain Bhatti v. Sajid Ali]

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DATE	ORDER WITH SIGNATURE OF JUDGE
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13.04.2026

For orders on MA 735/26  
For orders on office objections  
For orders on MA 148/26  
For orders on MA 149/26  
For hearing of main case

Mrs. Razia Ali Zaman, Advocate for Petitioner

**Adnan Iqbal Chaudhry, J.**- Urgent hearing granted. Civil Suit No. 86/2024 filed by the Petitioner for restoration of possession under section 9 of the Specific Relief Act, 1877, was dismissed by the Senior Civil Judge Kotri after a trial. Against that, the Petitioner filed Revision Application No. 22/2025. That too was dismissed by the District Judge, Jamshoro by order dated 19.12.2025. The Petitioner has now invoked the writ jurisdiction against said judgment and order.

2. The suit land is an open area of 4000 to 5000 square feet adjacent to a taluka hospital. The Petitioner claimed that the suit land was part of agricultural land bearing Survey Numbers 260 and 261 of Deh Manjhand, held jointly by the Petitioner with his family, and that the Respondents 1 to 4 have encroached upon the same. The trial court dismissed the suit holding that the Petitioner failed to prove prior possession as against the Respondents 1 to 4. The Petitioner's revision application was dismissed by the learned District Judge Jamshoro with the following findings :-

“8. It appears from the record that the applicant's evidence primarily consisted of his own testimony and documents evidencing inheritance and co-ownership (Form VII-B, ADC order). However, it may be pointed here that ownership is distinct from possession. During cross-examination, the applicant admitted that the suit land was joint, unpartitioned family property; he had not obtained formal partition or demarcation; he did not produce utility bills, tax receipts, or independent witnesses to establish actual physical possession; and he acknowledged that Mst. Sakina was in possession, although he termed her an encroacher. The Mukhtiarkar (DW-1) and ex-SHO (DW-4) deposed that Mst. Sakina is the widow of the cook of the applicant's brother, who had been in uninterrupted possession for 8–10 years. Notably, the applicant did not implead her (Mst. Sakina) as a party in the suit.

9. The applicant alleged dispossession in May 2024 but failed to provide the precise date, time, or any independent witnesses and the manner to substantiate the alleged forcible eviction. His claim that dispossession occurred during Section 145 proceedings was not supported by any official order or police report. The trial court correctly observed that uncorroborated testimony alone was insufficient to establish dispossession.

10. The respondents' defense of an oral gift, while not formally recorded, was not material to Section 9 summary proceeding, which focuses solely on proof of exclusive and physical possession rather than title. Thus, the plaintiff/ applicant failed to substantiate his physical and exclusive possession and dispossession from the suit property. The trial court rightly concentrated on the applicant's failure to prove prior possession."

3. As rightly held by the learned District Judge, the central question in a suit under section 9 of the Specific Relief Act, is whether the plaintiff was in prior possession. In that regard, learned counsel for the Petitioner again places reliance on order dated 8.8.2018 passed by the Additional Deputy Commissioner Jamshoro under section 145 Cr.P.C. upon the Petitioner's complaint. While that order mentions that Survey Numbers 260 and 261 of Deh Manjhand were entered in the revenue record as property of the Petitioner's late brother, it is no evidence of the Petitioner's physical possession of the suit land. Furthermore, the land subject matter of those proceedings was Plot No. 601, not the suit land; Respondents 1 to 4 were not parties to those proceedings; and those proceedings culminated in 2018, whereas the alleged dispossession took place in May 2024. Therefore, said order dated 8.8.2018 is of no help to the Petitioner for present purposes.

4. The discussion by the learned District Judge reproduced above, has accurately captured the case both on points of fact and law. However, that is not the end of the road for the Petitioner. Section 9 of the Specific Relief Act stipulates that it does not bar a person from suing to establish his title to such property and to recover possession thereof. With that observation, the petition is dismissed.

JUDGE