

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Muhammad Saleem Jessar
Mr. Justice Nisar Ahmed Bhanbhro

COSTITUTION PETITION NO. D-1633 OF 2025
(Saifuddin Vs. Province of Sindh & others)

CONSTITUTION PETITION NO. D-4371 OF 2025
(Shumaila Tanveer Zia Vs. Province of Sindh & others)

Petitioner in CPD 1633 of 2025

Saif Uddin : through M/s. Usman Farooq
and Abdul Fattah Pathan Advocate

Petitioner in CPD 4371/2025

& Respondent No 6 in CPD 1633 of 2025

Shumaila Tanveer : through Mr. Muhammad Fahim Zia
and Sawan Meghwar, Advocates

Province of Sindh : through M/s. Hakim Ali Shaikh,
Addl. AG And Sagheer Ahmed
Abbasi, AAG

Respondent No.2 & 3

KMC : through Mr. Khurram Ghayas,
Advocate

Respondent 4, TMC

Shah Faisal : through Ms. Mahjabeen Rajput,
Advocate

Date of hearing : 15.04.2026

Date of Judgment : 12.05.2026

JUDGMENT

Muhammad Saleem Jessar, J.- Through this common order we intend to dispose of both these petitions as common question of facts and law are involved.

2. In C.P. No. D-1633 of 2025, the petitioner claims that respondent No. 6, Mst. Shumaila, has illegally occupied an amenity plot reserved for Quaid-e-Azam Park in Shah Faisal Town, Karachi, and therefore seeks the indulgence of this Court for removal of the encroachment made by respondent No. 6.

3. In C.P. No. D-4371 of 2025, the petitioner claims ownership of an area measuring 0-06 acres in Survey No. 384 of Deh Drigh, Tapo Drigh,

Shah Faisal, District Korangi, Karachi, and therefore seeks the indulgence of this Court to direct the official respondents to issue a No Objection Certificate for construction of a boundary wall over the property.

4. Learned counsel for the petitioner appearing in C.P. No. D-1633 of 2025 contended that the petitioner is the elected Chairman of Union Council No. 2, Al-Falah, Shah Faisal Town, Karachi. He further contended that an area of 0-06 acres of land from survey number 384 of Deh Drigh was reserved for Quaid-e-Azam Park, situated in Union Council No. 2 on Azeem Pura Road, Karachi. The land was earmarked exclusively for use as a public park; however, respondent No. 6 has encroached upon a portion of the said land and has raised illegal construction thereon. He further contended that the amenity plot cannot be used for any purpose other than that it has been reserved. He therefore prayed for removal of the encroachment therefrom.

5. Learned counsel for the petitioner in CPD No.4371/2025 (Respondent No 6 in CPD 1633 of 2025) contended that petitioner was the owner of the land bearing Survey No.384 Deh Drig, Tapp Drigh, Shah Faisal Town and was entitled to raise construction. He referred page-25 of the petition, which reflected that the petitioner was owner of Survey No.384. He contended that property owned by the Petitioner was not the part of Quaid e Azam Park and she being owner was within her rights to utilize the same for personal use. He, therefore, prayed to allow the petition filed by the petitioner and dismissal of the Petition filed by Saif Uddin.

6. Learned Additional Advocate General, Sindh, and learned counsel appearing on behalf of respondents No. 3 and 4 contended that there are divergent claims of ownership over the property. According to the revenue record, the property stands entered in the name of Shumaila Tanveer; however, according to the KDA record, the claim of the Shumaila Tanveer, was not found justified. They therefore contended that disputed questions of fact are involved in the matter, and Petition was not maintainable, as such, the petitioners may avail the appropriate remedy before the competent Civil Court for adjudication of their rights.

7. Heard arguments and perused the material made available before us on record.

8. A meticulous perusal of the record revealed that the Commissioner, Karachi Division, in its reply dated 15.09.2025, has stated that respondent No. 6, Shumaila Tanveer, holds proprietary rights of the property under lis, through a General Power of Attorney, and that Survey No. 384 of Deh Drigh was not required by the KDA. For the sake of convenience interim compliance report is reproduced hereunder:-

"In compliance with the order dated 28.04.2025 passed by the Honourable High Court of Sindh at Karachi, the Deputy Commissioner, District Korangi, was directed to furnish the reports regarding the site visit and verification of title / ownership in accordance with the Revenue Record, who in response to the aforementioned wrections, forwarded the reports of Mukhtiarkar, Shah Faisal Sub-Division, vide letter dire Mukh/S.F/K/386/2025 dated 08.09.2025, duly forwarded by the Assistant Commissioner, Shah Faisal, via letter No. AC/S.F/K/524/2025 dated 08.09.2025. The copies of the reports are attached herewith as Annexures "I" "II" & "III".

2/- The Deputy Commissioner District Korangi, vide reported ADC-I/KOR/K/ 3673/2025, dated 10.09.2025, has reported that the disputed area 00.6 guntas form part of Survey No. 384 which is recorded as a private survey number in record of rights vide Entry No. 53 of VF-VII-A of Deh Drigh. Furthermore, Foti Khata of one of the share-holder namely Bhirio S/o Khair Muhammad has been changed vide entry No. 2966 dated 07.08.1991. The respondent No. 6, Miss Shumaila Tanveer D/o Tanveer-ul-Islam Siddiqui, holds rights under a registered General Power of Attorney as Sub-Attorney of Mr. Wahid Akhtar, General Power of Attorney of Legal Heirs of Buriro, who was shareholder of 0-2-4 13/288 area 00-10.45 ghuntas as an undivided share in Survey No. 384 (1-31) acres alongwith 28 other shareholders (Khatedars). The disputed land, measuring 0-06 Ghunta, as indicated by Survey Superintendent, Karachi in his reports bearing letter Nos. SS/KYC/(F-2876)/2025/105, dated 20.025.2025 and SS/KYC/(F-2876)/2025/161, dated 17.03.2025, along with site sketch (Annexure "IV" "V" & "VI"), forms part of Survey No. 384, Deh Drigh, but as per entries No. 147,149,150,151 & 152, kept in the record of rights in favour of KDA & others, the Survey No. 384 is not shown acquired by the KDA.

3/Furthermore, a letter bearing No. CKD/Rev. Br./1351/2025, dated 12.09.2025, has been issued to the Metropolitan Commissioner (KMC), Director General (KDA), and the Town Municipal Corporation (TMC) Shah Faisal, District Korangi, requesting them to furnish their comments regarding title /ownership / land acquisition in respect of Survey No. 384, Deh Drigh, Shah Faisal, District Korangi, Karachi, within three days. A copy of letter is annexure as Annexure "VII".

4/ The report shall be submitted before the Honourable Court upon receipt of the responses from KMC, KDA and TMC as stated above."

9. Contrary to the stance of Revenue Department, the Karachi Development Authority in its reply / compliance report dated 15.04.2026

has disputed the ownership of Shumaila Tanveer and has stated in the reply that:

"It is pinpoint here, that Mr. Muhammad Umer S/o Khair Muhammad executed the General Power of Attorney in favor of Mr. Wahid Akhtar S/o Khoidad Khan who had already sold his shares through a Registered Lease Deed vide Registration No. 4536 Dated 03-11-1991, Sub-Registrar, T Div-III, Karachi to Mr. Nadir Khan S/o Muhammad Raheem. The lessor / landlord is owner of share 0-2-4 paisa in Survey No. 384, Deh Drigh, Tappo Malir, Karachi, bearing plot No 1/A, measuring 475 Sq. Yds. and another Lease deed executed vide Registration No. 1535 Dated 03-11-1991 before the Sub-Registrar T-Division-III, the lessor/landlord of share Rs. 0-2-4 paisa in Survey No. 384, Deh Drigh, Tappo malir, Taluka Karachi measuring 150 Sq. Yd, to Mr. Muhammad Zada S/o Abdul Muneeb Khan being plot No. 1/C, the third Lease Deed also executed vide Registration No. 4537 Dated 03-11-1991, Sub-Registrar T-Division-III in favor of Qadim Khan S/o Muhammad Raheem in Survey No. 384, Deh Drigh Road being a plot No. 1/B, measuring 150 Sq Yds. As per schedule of lease deed the same place claimed by the Ms. Shumaila Tanveer.

The claim of Mrs. Shumaila Tanveer petitioner of C.P. D-4371/2025 on the basis of three (3) claims of (1) M/s Tahseen Construction Company, (2) M/s Bismillah Construction Company & (3) Nadir Khan, Muhammad Zada a Qaddeem Khan through registered document & registered Power of Attorney is unjustified without adopting judicial proceedings and concealment of facts and factual record is null & void and illegally trying to occupying the green belt under passing the municipal services which has been developed a park in the name of Quaid Park, the C.P. No. D-4371/2025 is liable to be dismiss accordingly.

10. From a perusal of the replies submitted by the revenue department and the KDA, it transpires that the title of the parties is under dispute; however, the revenue record supports the claim of Shumaila Tanveer (respondent No. 6 in C.P. No. D-1633/2025 and petitioner in C.P. No. D-4371/2025). Since disputed questions of fact and law are involved in both these petitions, which require recording of evidence, and this Court, in exercise of its constitutional jurisdiction, cannot embark upon adjudication thereof. The extraordinary jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 ("Constitution"), is destined to dispense with an expeditious remedy in cases where the illegality or impropriety of an impugned action can be established without any exhaustive inquisition or recording of evidence, but if some convoluted or disputed question of facts are involved, the adjudication of which can only be determined by the Courts of plenary jurisdiction after recording evidence of the parties, then incontrovertibly the High Court cannot embark on such factual controversy

11. Consequently, these petitions, being not maintainable, are dismissed. However, the parties are at liberty to avail themselves of the remedy before the appropriate forum in accordance with law.

J U D G E
HEAD OF CONST. BENCHES

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Approved for reporting