

IN THE HIGH COURT OF SINDH, KARACHI
Const. Petition No. 648 of 2025.

Petitioner	Muhammad Saleem through Mr. Irshad Ali Shar, Advocate.
Respondent No.1	Bakhtiar Afzal through Mr.Barkat Ali Metlo, Advocate.
Respondent No.2	Nemo
Respondents No.3&4	Nemo
Date of hearing	02.10.2026.
Date of order	02.10.2026.

ORDER

Muhammad Osman Ali Hadi-J.- Learned counsel for the Petitioner submits that the Impugned Order dated 23.07.2025¹ has been incorrectly decided. It is claim of the Petitioner that he is owner of property being Plot No. C-40 Survey No. A-3487, K.D.A Scheme, Future Colony More, Moeenabad No.01, Daud Chowrangi, Malir, Karachi. He submits that the Respondent No.1 had filed rent proceedings and had gotten an Order in his favour by the Trial Court, which was obtained through fraud and collusion. Learned counsel submits that the Order of the Trial Court was based upon Plot No.35, but the Respondent No.1 is taking over his plot, which is C-40. Counsel has further referred to the alleged title of the Respondent No.1 at pages No. 91-93, which he states is bogus and therefore submits that the Trial Court had wrongly observed that the said property belongs to the Respondent No.1, and that accordingly should not have passed their initial Order dated 15.11.2021² which was in favour of the Respondent No.1. Counsel further contends that he had filed a Civil Suit No. 1175/2023 before 1st Senior Civil Judge Malir, Karachi which remains pending, regarding his title and possession of said the property. He submits that despite interim orders being obtained in the said Civil Suit, the same are not being obeyed. The Petitioner had filed an application under Section 12(2) CPC against the Order of the Trial Court which was dismissed vide the Impugned Order dated 23.07.2025, and subsequently dismissed in Appeal vide Order dated 30.07.2025¹ He contends that the claim of the Respondent No.1 is bogus, therefore the Trial Court Order and all subsequent Orders that followed in favour of the Respondent No.1 are also erroneous.

Learned counsel for the Respondent No.1 submits that the Trial Court had passed Order in his favour after perusal of documents, in a case under Section 16 of Sindh Rented Premises Ordinance 1979. He further contends

¹ Available at Page 25 of Court File

² Filed alongwith statement dt.23.04.2026.

that the said Order was passed in his favour against Respondent No.2, which was challenged by Respondent No.2 in appeal and then before the Hon'ble High Court in C.P No.D-703/2023, which all failed, and therefore the Respondent No.1 is lawfully entitled to the said property; and that the Orders passed below regarding said property were in accordance with law after the Courts gave proper legal consideration.

I have heard the learned counsels for the Parties and with their assistance have gone through the relevant documents. The Impugned Order dated 23.07.2025, which dismissed the Petitioner's application under Section 12(2) CPC, as well as Order dated 30.07.2025³ vide which the Appellate Court also dismissed the claim of the Petitioner, appears to show that the Courts below heard the submissions of the Petitioner and have clearly stated that instant Petitioner has not provided any demarcation report, site inspection, independent evidence or other document to substantiate their claim on the subject property.

Furthermore, a perusal of the Appellate Court Order (impugned herein) has also stated similar reasons, and further shown that possession of the subject property was directed to be handed over to the Respondent No.1 by the High Court in C.P No.D-703/2023. In the first instance, since the possession was directed to be handed over to the Respondent No.1 by the High Court itself, the same cannot be re-agitated in the second instance vide a Constitutional Petition. The Petitioner has already filed a Civil Suit⁴ which is pending in which he is seeking a declaration for ownership of property being Plot No. C-40, Survey No.A-3487, measuring 190 Sq.Yards, situated at KDA Scheme, Future Colony More, Moonabad No.1, Landhi, Dawood Chowrangi, Malir, Karachi, and since such Suit has not yet been decided, the Petitioner cannot claim lawful ownership of the property. As far the grievance of the Petitioner that interim orders have been passed by the learned Senior Civil Judge in the Civil Suit are not being complied with, is not a matter for this Court to decide under its Constitutional Jurisdiction. The Petitioner is at liberty to avail their legal remedy before said Civil Court where the Suit remains pending.

Accordingly, since the Petitioner has failed to provide any ground for interference by this Court, this Petition stands dismissed.

JUDGE

Shabir/P.S

³ Available at Page No. 31 of Court File

⁴ Available at Page 59 of Court File
