

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

Constitutional Petition No. D – 1536 of 2026  
(Muhammad Yasir Nehal v. Madras Cooperative Housing Society and others)

| DATE | ORDER WITH SIGNATURE OF JUDGES |
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Before:  
Mr. Justice Adnan-ul-Karim Memon  
Mr. Justice Muhammad Jaffer Raza

**Date of hearing and order: 29.09.2026**

Mr. Shazeel Hassan, Advocate for the Petitioner.  
Mr. Abdul Jalil A. Zubedi, A.A.G.

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**ORDER**

**Adnan-ul-Karim Memon, J.** Petitioner has filed these Constitutional Petitions under Article 199 of the Constitution, challenging the order dated 12.02.2026 passed by the learned V<sup>th</sup> Senior Civil Judge, West, Karachi, in Society Suit No.1187/2024, whereby his application filed under Order I Rule 10 CPC for impleadment as a necessary and proper party was dismissed. The said suit concerns declaration, cancellation of documents, possession and permanent injunction regarding the subject property.

2      The learned counsel for the petitioner contends that he had purchased the property from respondent No.2 for valuable consideration pursuant to a Sale Agreement and that the General Power of Attorney and payment documents were executed in furtherance thereof. He asserts that although respondent No.2 referred in his written statement to the property having been sold to "Mufti Sarfaraz," the transaction was in fact concluded in favour of the petitioner, while his elder brother had only conducted the initial negotiations on his behalf. It is further contended that respondent No.2 admitted the sale and raised no objection to the petitioner's impleadment. The petitioner maintains that he has a direct and substantial interest in the subject matter and that any decree passed in his absence would prejudice his rights. He therefore seeks setting aside of the impugned order and his impleadment in the pending suit.

3.      Learned counsel for the Petitioner submits that he is necessary and proper party in the proceedings as the General Power of Attorney has been executed in his favour. He submits that the valuable consideration has been fully paid by him and his case will be highly prejudiced as the stage of the case is cross-examination of the Plaintiff.

4.      The Trial Court, after considering the record and submissions, held that the applicant failed to establish even prima facie that he was a necessary or proper

party under Order 1 Rule 10. C.P.C. No title document, conveyance, allotment order, mutation or other document evidencing ownership was produced, while the General Power of Attorney relied upon did not confer title. The Court further noted that Defendant No. I's own written statement disclosed sale of the property to one Mufti Sarfaraz, with no chain of title connecting the Applicant to the alleged purchaser. It was therefore held that the Applicant had not demonstrated any direct and substantial interest in the suit or that his presence was necessary for effective adjudication. Accordingly, the application for impleadment was dismissed as devoid of merit.

5. The record shows that the petitioner claims a direct and substantial interest in the subject property on the basis of the Sale Agreement, payment of valuable consideration and General Power of Attorney executed in his favour. Although the learned Trial Court dismissed the application under Order I Rule 10, C.P.C. on the ground that the petitioner had not produced a title document or other conveyance establishing ownership, the question at the stage of impleadment is not to finally determine the petitioner's title or adjudicate the validity of his alleged transaction. The trial Court ought to have examined whether his presence was necessary or proper for the effective and complete adjudication of the controversy involved in the suit, but failed to exercise the power conferred by the law.

6. The petitioner's assertion that he is the person in whose favour the transaction was actually concluded, coupled with his claim of having paid the consideration and the existence of the General Power of Attorney, prima facie discloses an interest which may be directly affected by the outcome of the suit concerning declaration, cancellation, possession and injunction in respect of the same property. Moreover, respondent No.2, from whom the petitioner claims to have acquired the property, has not opposed his impleadment as impugned.

7. In such circumstances, refusal to implead the petitioner could result in adjudication of rights concerning the property in his absence and may occasion further litigation. The discrepancy regarding the name of the purchaser, namely "Mufti Sarfaraz", and the petitioner's assertion that the initial negotiations were conducted by his brother on his behalf, are matters requiring evidence and cannot appropriately be conclusively determined.

8. Accordingly, without expressing any opinion on the ultimate validity of the petitioner's title, the genuineness of the transaction or the merits of the main suit, the petitioner is held to be a proper party whose presence would assist the learned Trial Court in effectively and completely adjudicating the controversy.

9. the impugned order dated 12.02.2026 is, therefore, set aside to the extent of refusal of his impleadment in the proceedings. The learned Trial Court is directed

to implead the petitioner/applicant as a party in the suit and thereafter provide him an opportunity, in accordance with law, to participate in the proceedings, including cross-examination of witnesses, subject to the procedural rights of the existing parties.

JUDGE

JUDGE

Nadeem Qureshi PA