

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. S-777 of 2025
(Abdul Khalique versus Munir Ahmed & others)

Date	Order with Signature of Judge
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Date of hearing and order: **16.10.2026.**

Mr. Hussain Raza Larik, advocate for Petitioner.

ORDER

Zulfiqar Ali Sangi, J. – Through the instant Constitutional Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner has called in question the judgment and decree dated 07.03.2024 passed by the learned Senior Civil Judge-XIV, Karachi West, in Civil Suit No.10 of 2023, whereby his suit for possession and permanent injunction under Section 9 of the Specific Relief Act, 1877, was dismissed, as well as the order dated 03.12.2024 passed by the learned IX Additional District Judge, Karachi West, in Civil Revision Application No.74 of 2024, whereby the revision preferred against the aforesaid judgment and decree was dismissed.

2. The facts, in brief, are that the petitioner instituted a suit asserting that he had been in lawful possession of a residential house and four shops constructed on Plot No. A1-20, measuring 295 square yards, situated at Rozi Brohi Goth, Deh Nangan, Tappo Songal, Surjani Town, Karachi. According to the petitioner, on 28.10.2022, the respondents, along with their associates, forcibly entered the premises after breaking its locks and dispossessed him without due course of law. He claimed that, despite approaching the police, he could not secure restoration of possession and, consequently, instituted the suit seeking recovery of possession and permanent injunction.

3. The respondents contested the suit. Upon conclusion of the trial, the learned trial Court, after examining the oral and documentary evidence produced by the parties, held that the petitioner had failed to establish his prior peaceful possession and the alleged unlawful dispossession. The suit was, accordingly, dismissed vide judgment and decree dated 07.03.2024. The

petitioner's challenge to the said judgment and decree through Civil Revision Application No.74 of 2024 also met with dismissal vide order dated 03.12.2024.

4. Learned counsel for the petitioner contends that the impugned judgments suffer from misreading and non-reading of the evidence and that the courts below failed to appreciate the legal effect of the documents produced by the petitioner, including Deh Form-II, Sanad, utility bills and other relevant documents. It is further contended that the allegations set out in the plaint disclosed a case of forcible and illegal dispossession falling within the ambit of the Illegal Dispossession Act, 2005, and that the learned trial Court ought to have returned the plaint for presentation before the competent forum instead of adjudicating upon the matter. On these grounds, learned counsel seeks setting aside of the impugned judgments and consequential relief. Counsel for the petitioner has relied upon the cases of Qamaruddin versus Imdad Hussain [2019 YLR 498], Late Mst. MAJEEDAN through Legal Heirs and another versus Late MUHAMMAD NASEEM through Legal Heirs and another [2001 SCMR 345] and FAROOQ ALI CHUGHTAI versus FAZLURREHMAN and 3 others [PLJ 1998 Karachi 69].

5. I have heard learned counsel for the petitioner and examined the available record with his assistance.

6. The principal question requiring consideration is whether the impugned judgments suffer from any jurisdictional defect, material illegality, or such misreading or non-reading of evidence as would warrant interference by this Court in its constitutional jurisdiction.

7. The record reflects that the petitioner appeared as his own witness and produced various documents in support of his claim. However, as noticed by the learned trial Court, the petitioner did not produce the tenant from whom he claimed to have obtained vacant possession of the premises, nor did he examine his family members or any independent witness to corroborate the alleged incident of forcible dispossession. The petitioner also failed to produce independent corroborative material substantiating the circumstances in which he claimed to have been dispossessed.

8. The learned trial Court further noticed material discrepancies in the documents relied upon by the petitioner. The Deh Form-II

relied upon by him pertained to the year 1996, whereas, according to his testimony, he had purchased the property in 2006. The utility bill produced in evidence pertained to House No.115, Main Road, Block A-6, whereas the property in dispute was described as Plot No. A1-20. Likewise, a discrepancy was noticed between the area claimed in the plaint and the area reflected in the Sanad. These discrepancies were considered by the learned trial Court while assessing the credibility of the petitioner's claim and the evidentiary value of the documents produced by him. It is settled that, in proceedings under Section 9 of the Specific Relief Act, 1877, the question of title is not the primary consideration; rather, the Court is required to determine whether the plaintiff was in possession of the immovable property and was subsequently dispossessed otherwise than in due course of law, and whether the suit was instituted within the prescribed period of six months. The burden of establishing the essential ingredients of such a claim rests upon the plaintiff. In the present case, the learned trial Court examined the petitioner's oral and documentary evidence and concluded that the essential ingredients of the relief claimed had not been established. The revisional Court, upon examining the findings so recorded, found no sufficient ground to interfere.

9. So far as the contention regarding the Illegal Dispossession Act, 2005, is concerned, the mere allegation that the respondents forcibly occupied the property does not, by itself, establish that the civil Court lacked jurisdiction to adjudicate upon a suit instituted under Section 9 of the Specific Relief Act, 1877. The availability and applicability of a remedy under the special law must be examined in the context of its statutory requirements and the nature of the relief sought. The petitioner has not demonstrated that the mere invocation of the Illegal Dispossession Act, 2005, rendered the civil proceedings inherently without jurisdiction or required the plaint to be returned in the circumstances of the present case. It is also pertinent to observe that the petitioner seeks, in substance, a reappraisal of the evidence already examined by the trial Court and considered by the revisional Court. The constitutional jurisdiction of this Court is not ordinarily exercised to substitute its own assessment of evidence merely because another view may be possible. Interference may be warranted where a finding is shown to be perverse, arbitrary, based on material misreading or non-reading of evidence, or otherwise suffers from a patent illegality affecting the

decision. No such infirmity has been demonstrated in the present case so as to justify interference with the concurrent findings recorded by the courts below.

10. For the foregoing reasons, I find that the petitioner has failed to establish any jurisdictional defect, material illegality, or other exceptional circumstance warranting interference under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. The impugned judgment and decree dated 07.03.2024 and the revisional order dated 03.12.2024, therefore, do not call for interference in the constitutional jurisdiction of this Court.

11. Consequently, the instant Constitutional Petition is ***dismissed*** in limine. There shall be no order as to costs.

JUDGE