

IN THE HIGH COURT OF SINDH, KARACHI

C. P. NO. D-4045 / 2026

(Asad Ali Awan Vs. Province of Sindh & Others)

Present:

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Muhammad Jaffer Raza

Date of hearing and order:- 31.08.2026.

Mr. Muhammad Arif, Advocate for Petitioner.
Mr. Zohaib Sarki, Additional Advocate General Sindh.
Mr. Ahmed Ali Ghumro, Advocate for Respondent No. 2.
Mr. Yousuf Makda, Advocate for Respondent No. 5.
Mr. Nisar Ahmed Khan Rind, Advocate for Intervener.
SHO/PI Asad P.S. SITE.
SIP Javed Akhtar P.S. SITE.

Adnan-ul-Karim Memon, J. Petitioner Asad Ali Awan has filed this Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan seeking the following reliefs: -

- “a. To direct the respondent No.2 to 4 not to demolish and disturb the construction work raised by the petitioner over the said plot, i.e., bearing commercial Plot No.D-295, Sher Shah SITE Karachi, measuring 264 square yards, under the influence of respondent Nos. 5 & 6, illegally and unlawfully.*
- b. To restrain the respondents, their employees, servants, agents, attorneys, assignees and other persons acting on their behalf from dispossessing the petitioner from the said plot and from occupying and disturbing the construction work of the above said plot of the petitioner bearing commercial Plot No.D-295, Sher Shah SITE Karachi, measuring 264 square yards forcibly, illegally & unlawfully, without due process of law.*

2. The petitioner’s case, in brief, is that he is the lawful owner/lessee of commercial Plot No. D-295, Sher Shah, SITE Karachi, measuring 264 square yards, which was regularized in his favour by Respondents No.2 and 3 in 2013 after payment of the requisite land cost and charges, and was subsequently leased to him in June 2017. He states that he obtained the approved building plan, requisite NOCs and permission for construction from SITE and paid the prescribed charges. Thereafter, he commenced construction in accordance with the approved plan. According to the petitioner, M/s. Amreli Steel Ltd. and its employees, with ulterior motives, filed C.P. No. D-5577/2022 by misrepresenting that the petitioner’s plot was part of a road, nala space or green belt and obtained a restraining order. It is urged that the petitioner contested the proceedings and asserted the validity of his allotment, regularization and lease. He further states that Amreli Steel had itself encroached upon adjoining road, PTCL cabinet, water board and railway areas, against which he had approached the concerned authorities and also filed C.P. No. D-6143/2022. However, both petitions were ultimately disposed of by this Court on 20.05.2025. The petitioner further submits that he had earlier filed Suit No.1685/2018 for declaration and permanent

injunction, pursuant to which a restraining order was passed on 31.08.2018. Thereafter, SITE withdrew its cancellation letter and restored the petitioner's allotment/regularization through letter dated 16.03.2020, whereafter the suit was withdrawn and dismissed as such on 18.03.2022. He also challenges the subsequent conduct of SITE officials, alleging that despite the restoration of his allotment and acceptance of land charges and ground rent, Respondents No.2 and 3 supported the contrary position taken by Amreli Steel. After disposal of the above constitutional petitions, the petitioner filed Civil Suit No.1614/2022 for declaration, damages and permanent injunction against the respondents and Amreli Steel, which was transferred to the Court of VIII-Senior Civil Judge, Karachi West, where it is presently pending as Suit No.2636/2025. The petitioner alleges that Respondent No.5, in collusion with certain officials of SITE, is attempting to unlawfully dispossess him from the plot and compel him to meet his demands. He states that despite approaching the police, no action was taken. He further alleges that on 22.06.2026, the M.D. SITE called him and directed him to vacate the plot and comply with the demands of Respondent No.5. Upon his refusal, he was threatened with cancellation of the plot, demolition of the construction and involvement in false criminal cases. Consequently, the petitioner contends that Respondents No.2 to 4, in collusion with Respondents No.5 and 6, have unlawfully stopped his construction despite his valid lease, payment of all dues and approved building plan, and are threatening to dispossess him without lawful authority. He therefore invokes the constitutional jurisdiction of this Court, asserting that he has no other efficacious remedy.

3. When confronted with the legal position of the case that he has already filed civil suit on the subject issue, counsel for the petitioner submits that the petitioner is the lawful lessee/owner of Commercial Plot No. D-295, Sher Shah, SITE Karachi, measuring 264 square yards, and had obtained the requisite approved drawing after completing all legal formalities. He contends that, despite this, Respondents No.2 to 4, allegedly under the influence of Respondents No.5 and 6, unlawfully stopped the petitioner from carrying out construction and threatened to dispossess him from the plot. It is further submitted that Respondent No.5, being an influential person, has himself encroached upon the road in front of his plots and raised illegal construction, yet no action has been taken against him despite the petitioner's repeated complaints to the concerned authorities. Counsel argues that the respondents' conduct is mala fide, without lawful authority and in violation of the petitioner's legal and fundamental rights. He therefore seeks directions restraining the respondents from demolishing or disturbing the petitioner's construction and from dispossessing or interfering with his possession except through due process of law, along with costs and any other appropriate relief.

4. Counsel for Respondent No.5 submitted that the Constitution Petition is not maintainable as the Petitioner has already instituted Civil Suit No.1614/2022, now pending as New Suit No.2636/2025, concerning the same subject matter. It was argued that the dispute involves disputed questions of title, possession, identity, boundaries, demarcation, validity of documents, regularization, lease and alleged encroachment, which require evidence and cannot appropriately be adjudicated in constitutional jurisdiction. Counsel further pointed out discrepancies in the alleged area of Plot No.D-295 and inconsistencies regarding the relevant lease deed, site plan and historical record of the original D/64 parcel and its subdivisions, thereby necessitating proper demarcation and examination of the original record. On merits, counsel denied that Respondent No.5 has any proprietary or possessory interest in Plot No.D-295 or ever attempted to dispossess the Petitioner. The allegations regarding any demand for payment, exercise of influence over SITE officials, directions to stop construction, threats, encroachment or collusion were specifically denied as false, vague and unsupported by any documentary or independent evidence. It was submitted that Respondent No.5's former position as an office-bearer/President of the SITE Association conferred no statutory or administrative authority upon him over the Petitioner's plot, and he is neither an officer of the District Administration nor of the Police. Counsel finally submitted that the allegations and grounds against Respondent No.5 disclose no cause of action or unlawful conduct on his part, and that the Petition is misconceived, frivolous and an abuse of the process of law. He therefore prayed that the Petition be dismissed, particularly against Respondent No.5, with costs.

5. Learned AAG as well as Counsel for the other respondents and the learned counsel for the intervener adopted the same stance and submitted that the Petitioner has already instituted Civil Suit No.1614/2022, now pending as New Suit No.2636/2025, in respect of the same subject matter. It is therefore prayed that the present petition be dismissed.

6. We have heard learned counsel for the parties and examined the record with their assistance.

7. The petitioner seeks protection of his alleged title, leasehold rights, possession and construction over Commercial Plot No.D-295, Sher Shah, SITE Karachi. However, the record itself demonstrates that the petitioner has already instituted Civil Suit No.1614/2022, subsequently renumbered as Suit No.2636/2025, before the competent Civil Court, wherein substantially the same dispute relating to the subject property, the petitioner's entitlement thereto, possession and alleged interference by the respondents is pending adjudication. The petitioner cannot simultaneously pursue parallel proceedings before the Civil

Court and this Court under Article 199 of the Constitution for substantially overlapping reliefs.

8. The determination of the petitioner's claim would necessarily require adjudication of disputed questions relating to the identity and exact area of Plot No.D-295, its boundaries and demarcation, the original D/64 parcel and its subsequent subdivisions, the validity and effect of the alleged regularization and lease, the site plan and building record, the status of the construction, possession of the property and the allegations of encroachment and unlawful interference. Such matters cannot satisfactorily be determined merely based on affidavits and departmental documents in constitutional jurisdiction and require production and examination of oral and documentary evidence before the competent Civil Court.

9. Article 199 of the Constitution confers an extraordinary and discretionary jurisdiction upon the High Court and is not intended to substitute the ordinary civil remedy where the controversy is essentially one of civil rights and disputed facts. This Court has recently reiterated that where determination of rights, title, possession and entitlement requires recording of evidence, such matters fall within the domain of the competent civil forum and cannot appropriately be adjudicated in constitutional jurisdiction.

10. The principle underlying Section 10 CPC also militates against parallel adjudication of matters directly and substantially in issue in a previously instituted proceeding. Section 10 embodies the rule against simultaneous trial of substantially identical matters where the previously instituted proceeding is pending before a competent Court. Although Section 10 CPC, in its strict terms, operates between suits, its underlying principle against parallel adjudication is equally relevant while exercising discretionary constitutional jurisdiction under Article 199 of the Constitution, particularly where the petitioner has already chosen and invoked the competent civil forum.

11. Primarily, Section 9 CPC recognizes the jurisdiction of the Civil Courts to try suits of a civil nature unless their cognizance is expressly or impliedly barred. The reliefs claimed by the petitioner concerning declaration of his proprietary/leasehold entitlement, protection of possession and injunction against interference are, in substance, civil remedies. Where such remedies are already the subject matter of a pending civil suit, extraordinary constitutional jurisdiction under Article 199 of the Constitution ought not to be converted into a parallel civil trial between the parties on the same cause of action.

12. The case also attracts the principle embodied in Section 11 CPC, insofar as it emphasizes the public policy of finality of litigation and avoidance of

repeated adjudication of the same matter. Although the present controversy is not stated to have been finally decided in Suit No.2636/2025, the pendency of that suit demonstrates that the competent civil forum is already seized of the dispute. Section 11 itself bars re-trial of matters directly and substantially in issue which have already been finally decided, while its broader rationale is to prevent multiplicity and inconsistent adjudication.

13. Moreover, the petitioner's own pleadings disclose that his claim is founded upon disputed civil rights arising from the alleged allotment, regularization, lease, approved building plan and possession. In such circumstances, the appropriate course for determining the competing claims is therefore to permit the pending civil suit to proceed, where the parties may produce the original record, seek demarcation, lead oral and documentary evidence and obtain an adjudication binding upon all concerned. This Court, while exercising constitutional jurisdiction, may not undertake such fact-finding exercise or convert the constitutional petition into a substitute for a civil trial.

14. It is also significant that the allegations against Respondent No.5 regarding influence over SITE officials, demands for payment, threats, collusion and attempted dispossession have been categorically denied. Prima facie, no undisputed material has been placed before this Court, which would enable this Court to conclusively establish such allegations in summary constitutional proceedings. Whether Respondent No.5 actually interfered with the petitioner's possession or exercised any influence over the official respondents is itself a disputed factual matter requiring evidence.

15. The fact that the respondents are public authorities does not, by itself, confer a right upon the petitioner to invoke Article 199 of the Constitution in relation to every dispute involving property or possession. Constitutional jurisdiction may be exercised where an unlawful executive action is apparent and can be corrected without determination of complicated disputed facts; it cannot ordinarily be employed to adjudicate private civil controversies requiring a full-fledged evidentiary inquiry.

16. Accordingly, without touching the merits of the petitioner's title, lease, possession, construction or the rival claims of the parties, we hold that the petitioner has an adequate and efficacious remedy before the competent Civil Court, which is already seized of the matter through Suit No.2636/2025. The present petition, therefore, amounts to an attempt to obtain parallel adjudication of a pending civil dispute and is consequently not maintainable in constitutional jurisdiction under Article 199 of the Constitution.

17. For the foregoing reasons, this Constitutional Petition is dismissed as not maintainable, along with pending applications, if any. It is, however, clarified that the observations made herein are confined to the question of maintainability of the petition and shall not prejudice the petitioner's case or the defence of the respondents before the learned Civil Court, which shall decide the pending suit strictly in accordance with law and based on the evidence produced before it.

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