HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

CP No. S- 223 of 2026
[Masroor Ahmed and others v. Azeem and another]

CP No. S- 224 of 2026
[Masroor Ahmed and others v. Asghar Qaimkhani & others]

CP No. S- 225 of 2026
[Masroor Ahmed and others v. Zulfiqar @ Nawaz Shaikh & others]

Barrister Jawad Ahmed Qureshi, Advocate for petitioners
Mr. Sartar Iqbal Panhwar, Advocate for respondents
Mr. Allah Bachayo Soomro, Addl. A.G.

Date of hearing	29.10.2026
Date of Order	29.10.2026

O R D E R

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ADNAN-UL-KARIM MEMON, J:- The petitioners have challenged the judgment and decree dated 07.03.2026 passed by the Additional District Judge, Matli, in Rent Appeals, whereby the orders passed by the Executing Court in Rent Execution Applications were maintained and their appeals dismissed. They seek setting aside of the impugned judgment and enforcement of the execution applications as prayed.

2. Learned counsel for the petitioners contend that, after the death of their father, they inherited the disputed commercial shop and filed Rent Applications against the respondents for eviction and recovery of rent on account of default. Although the Rent Applications were initially dismissed, the appellate Court, vide judgment, allowed the applications and directed the respondents to vacate and hand over possession of the premises. He added that during execution proceedings, the Executing Court directed that possession of the premises be retained by the Mukhtiarkar Revenue, Matli, on the basis of demarcation reports so carried out by the order of the court. The petitioners' Rent Appeals were dismissed vide judgment dated 07.03.2026, maintaining the Executing Court's order. Being aggrieved, the petitioners have filed the present constitutional petitions, contending that the courts below acted beyond their jurisdiction by frustrating the final decree and placing the property in the custody of Mukhtiarkar, thereby depriving them of its lawful possession. They seek setting aside of the impugned judgments and enforcement of the decree passed by the trial court.

3. Learned counsel for the respondents controverts the contentions of the petitioners and submit that the impugned orders passed by the Executing Court and maintained by the appellate Court are lawful, proper and based on the demarcation reports obtained during execution proceedings. He contends that the Executing Court acted within its jurisdiction to ascertain the actual identity, boundaries and possession

of the disputed premises before proceeding with execution, and that the arrangement for retaining possession with the Mukhtiarkar Revenue, Matli, was made to avoid any further dispute or unlawful dispossession. He further submits that the petitioners cannot claim possession merely based on the decree without establishing their entitlement to the specific property identified through demarcation. It is argued that no illegality, jurisdictional defect or material irregularity has been pointed out in the concurrent findings of the courts below warranting interference under constitutional jurisdiction, as this court passed the status quo order and finally the Mukhtiarkar took possession of the subject premises under the orders of the court and handed over the custody of the rented shops to them on rent. Accordingly, dismissal of the petitions is prayed for.

4. I have heard the learned counsel for the parties and perused the record with their assistance.

5. Learned appellate Court held that the demarcation report prepared by the Mukhtiarkar, with consent of both parties, revealed that a portion of the disputed shops fell within government land. It observed that although an executing court cannot travel beyond the decree, it may adopt protective measures to ensure its lawful implementation and prevent encroachment upon government property. Accordingly, the direction to retain possession of the shops with the Mukhtiarkar was held to be a lawful protective measure, not a modification of the appellate judgment. Finding no illegality or irregularity in the impugned orders, the learned appellate court upheld the same and dismissed the rent appeals with no order as to costs based on such demarcation reports.

6. Learned AAG submits that, pursuant to the order dated 26.03.2025 passed by the Senior Civil Judge, Matli, directing delivery of possession of the suit shops, demarcation was conducted on 07.01.2025, which revealed that the shops fall outside City Survey No.120 and are situated on Government land within the road area, rather than on the private property of the decree-holder. Accordingly, vide order dated 19.09.2025, the Executing Court handed over possession of the shops to the Mukhtiarkar and directed a joint demarcation by the concerned survey authorities. The subsequent joint demarcation, supported by GPS coordinates and the City Survey map, confirmed the shop's location on Government land, and the report was submitted before the Executing Court on 17.03.2026. It is further submitted that the appeals against the order dated 19.09.2025 were dismissed by the Additional Sessions Judge, Matli, and the shops presently remain in the custody of the Mukhtiarkar.

7. In view of the foregoing facts and circumstances, the controversy primarily relates to the exact location and ownership of the subject shops, particularly whether the same fall within the government land or private property.

8. Since the demarcation report indicates the involvement of government land, while the petitioners rely upon the decree in their favor, the matter requires fresh exercise of demarcation to ascertain the true status of the disputed premises. The competent revenue authorities shall undertake such exercise through fresh demarcation in the presence of the parties or their duly authorized representatives, after providing them a fair opportunity to participate and raise objections. The exercise shall be completed within two months from the receipt of this order. If the subject shops are found to be situated on government land, the competent authority shall retain them in custody, subject to all just exceptions and in accordance with applicable law. However, if the demarcation establishes that the shops fall within the petitioners' private property and are covered by the decree, the Executing Court shall take appropriate steps for implementation of the decree in accordance with law. Until completion of the aforesaid exercise and further orders, the subject property shall remain in the custody of Trial/Executing Court, which shall preserve its existing status and ensure that no party creates any third-party interest or alters its nature. However, if any party is aggrieved against the demarcation report, may avail remedy as per law.

9. Accordingly, these constitutional petitions stand disposed of in the above terms, with no order as to costs. Let a copy of the order be communicated to all concerned for compliance.

JUDGE

Karar_Hussain/PS*