

ORDER SHEET
LAHORE HIGH COURT,
Multan Bench, Multan
JUDICIAL DEPARTMENT

W.P. No. 11074 of 2025

Mst. Ghazala Jabeen v. Addl. District Judge etc.

S.No. of order/ proceeding	Date of order/ Proceeding.	Order with signature of Judge, and that of parties or counsel, where necessary.
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02.10.2025 Sh. Abdul Rasheed, Advocate for the petitioner.

Through this petition, the petitioner has assailed the orders dated 21.07.2025 and 18.09.2025, passed respectively by the learned Executing Court and the learned Additional District Judge, Layyah, whereby her objection petitions in the execution proceedings were dismissed.

2. Facts in brief are that Respondent No.3 (Mst. Naheed Akhtar) obtained a decree of dower on 24.10.2022 from the learned Family Court, Layyah. The decree-holder initiated execution for possession of the decreed house. After delivery through the Court Bailiff, a report was submitted alleging extensive damage to the property. The learned Executing Court, through order dated 23.04.2024, directed assessment of loss by the XEN Buildings Department, which estimated the damage at Rs.11,30,434/- and ordered its recovery from the petitioner. The appellate court upheld that direction vide judgment dated 04.06.2024. Both orders were challenged by the petitioner in W.P. No.7496/2024, which was disposed of on 25.11.2024, allowing her to file objections before the Executing Court. Thereafter the petitioner filed objections which were dismissed on 08.02.2025, and the appeal thereagainst met the same fate on 02.05.2025. These concurrent findings were examined and upheld by this Court in W.P. No.5505/2025, dismissed on 15.05.2025. Subsequently, the petitioner filed fresh objections,

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which were again dismissed by the learned Executing Court on 21.07.2025, and her revision was also dismissed by the learned Additional District Judge, Layyah, on 18.09.2025, giving rise to the present petition.

3. Learned counsel for the petitioner contends that the petitioner was not a judgment debtor and therefore could not be subjected to recovery proceedings. It is urged that the impugned orders are without lawful authority, as the assessment of loss was arbitrary and conducted without associating the petitioner. It is further submitted that since a criminal case under Section 380 PPC is pending regarding the same incident, the civil proceedings should have been withheld till its conclusion.

4. The record reflects that both the courts below examined the matter comprehensively and reached concurrent conclusions supported by evidence and legal reasoning. The learned Executing Court, through its order dated 21.07.2025, observed that the petitioner's fresh objections were a repetition of matters already adjudicated and that she failed to produce any material contradicting the departmental assessment or showing that the loss did not occur while the property was in her possession. The court emphasized that the petitioner and her brother had not only withheld cooperation with the Building Department but also failed to produce any expert or documentary proof to rebut the estimate. The learned Appellate Court, vide order dated 18.09.2025, endorsed these findings, holding that the Executing Court acted well within its jurisdiction under Sections 47 and 51 read with Order XXI of the Code of Civil Procedure, 1908, and that the departmental assessment was properly obtained and based on a factual site inspection.

5. It is a settled proposition that the Executing Court possesses full authority to enforce a decree and address all questions arising therefrom, including restitution and incidental compensation, provided such actions remain ancillary to the execution and not beyond the scope of the decree. The courts

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below have rightly concluded that the assessed amount represents compensatory loss arising directly from the petitioner's own acts during possession, rather than a modification or enlargement of the decree itself.

6. The petitioner's argument that the pendency of a criminal case bars the execution proceedings is untenable. The civil recovery of damages operates independently of any criminal liability and is governed by distinct legal principles. It has been repeatedly held that civil and criminal proceedings can run concurrently without prejudice to one another case *The State through prosecutor General Punjab, Lahore vs. Chaudhry Mohammad Khan and others* (**PLD 2025 SC 254**). The Executing Court's decision, therefore, neither conflicts with nor preempts the outcome of the criminal case.

7. The conduct of the petitioner throughout these proceedings has been neither diligent nor bona fide. Having availed multiple remedies and suffered concurrent adverse findings, she has persisted in invoking the extraordinary jurisdiction of this Court against successive and ancillary orders emanating from the same execution proceedings. Such conduct is reflective of a design to prolong litigation and obstruct the enforcement of a lawful decree rather than to redress any genuine grievance. The repeated filing of objections on identical or substantially similar grounds, already adjudicated upon by competent forums, squarely attracts the principle of constructive res judicata, which bars a party from re-agitating matters that were or could reasonably have been raised in earlier proceedings. This principle has been consistently recognized as a bar not only to suits but also to successive applications and petitions where the issues were available to be raised earlier. In *Messrs New Rahat Engineering Works v. National Bank of Pakistan and another* (**2003 CLD 382 [Lahore]**) and *Messrs Shezan Services (Pvt.) Ltd. through Assistant Accounts Officer vs. Federation of Pakistan through*

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Secretary, Ministry of Defence and 2 others (2011 CLC 1573), the august Court held that a litigant who omits to plead or pursue a material ground in earlier proceedings cannot later reopen the controversy under a new guise; the principle of constructive res judicata and the equity enshrined in Order II Rule 2 CPC preclude such repetitive or selective litigation. The same reasoning applies here—the petitioner's successive objections are nothing more than a reiteration of pleas long settled by competent forums. This Court cannot permit its jurisdiction under Article 199 of the Constitution to be invoked as a means of circumventing the finality of judicial determinations. A litigant approaching this Court must come with clean hands and fair intent; however, the petitioner's pattern of conduct, marked by repetition, procedural defiance, non disclosure of dismissal of W.P.No. 5505 of 2025 before the Executing Court and disregard for final adjudications, demonstrates an intent to frustrate the decree-holder's lawful entitlement under the guise of a fresh cause.

8. The findings of both courts below are reasoned, supported by record, and consistent with the petitioner's admitted possession and conduct. No violation of law, jurisdictional defect, or perversity has been demonstrated. It is also pertinent that the petitioner has been persistently invoking the writ jurisdiction of this Court against different stages of the same execution proceedings, despite earlier adjudication of similar issues. This repetitive litigation reflects misuse of the extraordinary constitutional remedy intended for exceptional circumstances, not as a substitute for appeal or review.

9. The constitutional jurisdiction of this Court under Article 199 of the Constitution is discretionary and is not meant to reappraise concurrent findings of fact unless such findings are perverse, arbitrary, or based on no evidence. The impugned orders disclose due application of mind, procedural fairness, and correct exercise of jurisdiction, warranting no interference.

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10. For the reasons discussed above, this writ petition is devoid of merit and stands **dismissed in limine**. The learned Executing Court is, however, directed to conclude the pending execution expeditiously. The Office shall transmit a copy of this order to the Court concerned for information and compliance.

(SYED AHSAN RAZA KAZMI)
JUDGE

APPROVED FOR REPORTING

JUDGE

Riaz Anjum