

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

C.P No. S-708 of 2025
[*Syed Zeeshan Akhtar Jafari v. Rehan Jaleel Siddiqui*]]

Counsel for Petitioner: Mr. Shahnawaz Bughio,
Advocate

Counsels/ Representatives for
Respondents: None

Date of Hearing: 01.12.2025

Date of Order: 01.12.2025

ORDER

RIAZAT ALI SAHAR, J: - The petitioner, being aggrieved by the order dated 27.05.2025 passed by the learned VI Senior Civil Judge / Rent Controller, Hyderabad in Rent Application No.109/2024 and the judgment dated 11.11.2025 of the learned IX Additional District Judge, Hyderabad dismissing the petitioner's appeal and maintaining the said order, respectfully files this Constitution Petition. The petitioner prays that this Honourable Court call for the relevant R&P, examine the legality and correctness of both impugned orders. Thus, seeking following reliefs:

- a) *That, this Honourable Court may be pleased to call R&Ps of the rent application as well as FRA, and after its examination and scrutiny as to its legality, validity and correctness, allow the instant petition and set aside the impugned order dated 27-05-2025 passed by learned trial court, so also set aside the judgement dated 11-11-2025 passed by the learned appellate court and remand back the matter to the learned court of VIth Senior Civil Judge/ Rent Controller Hyderabad with directions to decide the rent application on merits after recording evidence of both the parties so also framing of issues.*
- b) *This Honourable Court may kindly be pleased to suspend the operation of writ of possession and restrain the learned trial court from issuing any*

directions for vacating the rented premises till final decision of the instant petition.

c) *Any other relief this Honourable Court deems fit and proper may be awarded.*

2. The learned counsel for the petitioner contended that the impugned order dated 27.05.2025 and the impugned judgment dated 11.11.2025 suffer from gross illegality and material irregularity, having been passed in undue haste without proper appreciation of the factual controversies raised by the petitioner. It was argued that the petitioner had categorically denied the existence of a landlord-tenant relationship, asserting that the subject premises had in fact been purchased by him from the respondent for a total sale consideration of Rs. 90,00,000/-, out of which Rs. 40,00,000/- had already been paid as advance, evidenced by a written sale agreement executed between the parties. In furtherance of this transaction, the petitioner has already instituted a suit for specific performance before the competent civil court, which is still pending adjudication. Despite these vital assertions, duly pleaded before both the trial court and the appellate court, neither forum considered these material facts, nor did they frame issues or record evidence to determine the disputed questions, thereby rendering the entire proceedings contrary to settled principles of natural justice. Learned counsel submitted that the petitioner was condemned unheard, particularly before the appellate court, which decided the matter without granting him proper opportunity of hearing. It was added that the petitioner was ready and willing to deposit the amount as directed by the learned trial court, but his earlier inability to deposit rent was based on valid reasons placed on record, which were also not considered. It was vehemently argued that the petitioner's rights have been seriously prejudiced especially when he is facing severe personal hardship owing to his wife's critical medical condition and that the impugned orders have resulted in frustration of his proprietary rights. Under these compelling circumstances, the petitioner has been left with no alternate efficacious remedy except

to invoke the extraordinary constitutional jurisdiction of this Court for the redressal of his grievances.

3. At the very outset, it is imperative to restate the firmly entrenched legal principle that the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 is neither appellate in nature nor intended to provide an additional tier of scrutiny where a statutory remedy already stands exhausted. The supervisory contours of this jurisdiction remain narrowly defined and cannot be expanded to re-assess evidence, disturb concurrent findings, or supplant the statutory appellate mechanism expressly provided under the Sindh Rented Premises Ordinance, 1979. The Honourable Supreme Court, in the authoritative judgment of *Shakeel Ahmed and another v. Muhammad Tariq Farogh and others* (2010 SCMR 1925), has categorically held that the appellate authority constituted under the Sindh Rented Premises Ordinance, 1979 is the final forum under the rent laws, and that Article 199 cannot be pressed into service to procure a second appellate review. The Apex Court observed:

“8. ... that jurisdiction under Article 199 of the Constitution cannot be invoked as a substitute of another appeal against the order of the appellate Court. Therefore, mere fact that upon perusal of evidence, High Court came to another conclusion would not furnish a valid ground for interference in the order of the appellate Court, which is final authority in the hierarchy of rent laws i.e. Sindh Rented Premises Ordinance, 1979.”

4. This principle was further endorsed in *Messrs Atif Ali and another v. Mst. Noor Jahan through Attorney and others* (2015 CLC 310), wherein this Court reiterated that the High Court cannot assume the role of an appellate or fact-finding forum in rent matters merely due to dissatisfaction of a party with the outcome before the appellate authority. A consistent judicial approach is evident in

subsequent decisions of this Court, including *C.P. No. S-520 & 521 of 2019* (Principal Seat) and *Noman Saleem v. Rehmat Elahee & others* (C.P. No. S-1405 of 2024, Principal Seat). These authorities collectively reinforce that the statutory structure under the Sindh Rented Premises Ordinance, 1979 is self-contained: the appellate authority stands as the terminal forum, and its findings cannot be re-opened in constitutional jurisdiction except on exceptional grounds such as patent jurisdictional defect, mala fides, or a clear violation of law. In light of this settled jurisprudence, any endeavour to re-visit factual determinations or re-appraise evidence already examined by the appellate authority would amount to a circumvention of the legislative design, an approach firmly proscribed within the ambit of Article 199.

5. Furthermore, it clearly emerges from the record that the learned trial Court acted strictly in accordance with law and procedure. The entire set of formalities was duly completed, and the appellant was afforded multiple and proper opportunities to contest the claim of the respondent. However, despite such indulgence, the appellant elected not to file a written statement, nor did he otherwise rebut the respondent's assertions. It further appears that the learned Rent Controller had passed a tentative rent order under Section 16 (1) of the Sindh Rented Premises Ordinance, 1979, directing the appellant to deposit the due rent with the Nazir of the Court. The appellant wilfully failed to comply with this mandatory direction. Consequently, the defence of the appellant was rightly struck off. The Rent Controller, under the statutory scheme, has no discretion to condone the delay or extend the period for compliance with a tentative rent order. The law is unequivocal that if a tenant fails to obey such an order, his defence must be struck off as a matter of obligation, not choice. Once the defence is struck off, the landlord becomes entitled to possession without the necessity of further contest and the Rent Controller is legally bound to pass an eviction order. In view of the appellant's persistent non-compliance, the learned Rent Controller was fully justified in striking off the defence

and ordering eviction in accordance with the mandatory provisions of law.

6. Answering the contention regarding the pending suit for specific performance and permanent injunction instituted by the respondent being F.C. Suit No. 1111 of 2024, presently sub judice before the learned 2nd Senior Civil Judge, Hyderabad, it is observed that once *default* stands established, the legal position is firmly settled. A tenant, whether asserting ownership of the rented premises or denying the very relationship of landlord and tenant, is under a legal obligation to first vacate the premises. Thereafter, such tenant may pursue the civil proceedings initiated by him, and only upon securing a favourable judgment from a competent court may he seek restoration of possession in accordance with law. In support of this settled proposition, reliance is placed upon *Dr. Muhammad Bashir Qasim through legal heirs v. Gulzar Mehmood and others* (Civil Petition No. 1032-K of 2025), wherein a plethora of precedents reaffirming the principle has been discussed. The relevant extract from paragraph 16 of the said judgment reads:

“Mst. Mussarrat Shaheen versus Mst. Verbeena Khan Afroz and others (2024 SCMR 1796), vide paragraphs 8 and 9 of the judgment delivered by a three-member Bench of this Court, it was observed:

8. *With respect to the contention raised by the petitioner’s counsel regarding the pending Civil Suit No. 303 of 2020, filed by the petitioner after initiation of the rent case in 2020—which seeks specific performance of the agreement dated 27.11.2009—it is essential to reaffirm the settled principle that a tenant cannot continue to occupy rented premises merely because he/she has filed a declaratory suit. Where a tenant asserts ownership of the property, the legally mandated course is to vacate the premises, pursue the civil suit, and, upon*

obtaining a favourable judgment from the competent court, reclaim possession accordingly.

9. Reference may be made to **Rehmatullah v. Ali Muhammad and another (1983 SCMR 1064)** wherein it has been held: “It is a settled principle of law that if a tenant denies the proprietary rights of the landlord, then he is bound first to deliver possession of the premises and thereafter contest the proprietary rights. If ultimately he succeeds and a decree is passed in his favour, he may enforce the same in accordance with law with all its consequences.”

Similarly, in **Muhammad Nisar v. Izhar Ahmed Shaikh and others (PLD 2014 SC 347)**, it has been ruled:

“Per settled law, in circumstances where a tenant asserts that he has purchased the property, he must file a suit for appropriate relief (which has been done), vacate the premises, and thereafter, if he succeeds, he shall be entitled to take possession of the premises again.”

[Emphasis added]

Recently, this Court in **Nasir Khan v. Nadia Ali Butt and others (2024 SCMR 452)**, while examining an identical issue, observed:

“...the inescapable conclusion is that a tenant remains a tenant; he cannot prolong his occupation by asserting rights as a subsequent purchaser unless so held by a court of competent jurisdiction. The rationale is that he has no lawful status to justify continued possession, and if he denies the relationship of landlord and tenant, he becomes an illegal occupant. It is trite law that a person cannot

remain in occupation of rented premises merely because he asserts ownership and has instituted a declaratory suit.”

7. In view of the foregoing discussion and upon meticulous examination of the impugned order of the learned Rent Controller as well as the judgment rendered by the learned appellate Court, no illegality, material irregularity, jurisdictional defect, misreading or non-reading of evidence has been demonstrated so as to justify interference by this Court in its constitutional jurisdiction. Both forums below have exercised their authority strictly within the parameters of the Sindh Rented Premises Ordinance, 1979, and their concurrent findings are firmly rooted in settled principles of rent law. The petitioner seeks, in essence, a re-appraisal of factual determinations, which is impermissible under Article 199 of the Constitution. The statutory hierarchy under the rent laws having already been fully exhausted, no further scrutiny is warranted by this Court.

8. Resultantly, finding no merit in the present petition, the same is dismissed in limine, with full endorsement of the well-reasoned findings recorded by the learned Rent Controller as well as the learned Appellate Court. The impugned order dated 27.05.2025 and the appellate judgment dated 11.11.2025 require no interference and are hereby maintained.

JUDGE