

Judgment Sheet
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.S-365 of 2025

[Muhammad Rizwan Qamaruddin v. Syed Imran Hussain Zaidi & Ors]

Petitioner : Through Mr. Naveed Ali, Advocate
Respondent No.1 : Through Mr. Faiz Durrani, Advocate.
Date of Hg. & order : 11-09-2025.

ARSHAD HUSSAIN KHAN, J.- Through instant Constitutional Petition, the petitioner has assailed the Judgment dated **18.04.2025**, passed by the Additional District Judge-VII, Karachi-Central in F.R.A. No.180 of 2024, which was dismissed while maintaining the order dated **14.05.2024**, passed by the Rent Controller-VI, Karachi-Central in Rent Case No.554/2019, allowing the ejectment application with directions to the petitioner to vacate the rented premises and hand over its peaceful vacant possession to the respondent No.1 within one month.

2. Briefly, the facts giving rise to the present petition are that respondent No.1/applicant, claiming to be the owner/landlord, filed ejectment application being Rent Case No.554/2019 before the VIth Rent Controller, Karachi-Central against the petitioner/opponent on the grounds of **default in payment of rent** as well as **personal bonafide need**. The petitioner filed his written statement whereby he denied the claim of the respondent No.1. Thereafter, the attorney of respondent No.1 was examined on Oath, who produced documents in support of the claim and he was also cross-examined by the petitioner's counsel and side of the respondent No.1 was closed. However, the petitioner despite giving ample opportunities failed to produce his defence evidence, due to which his side was closed. Later on, the petitioner filed application for restoring his side, which was allowed and once again sufficient chances were given to the petitioner to produce his evidence but in vain, as such, his side was again closed. The Rent Controller, vide order dated **14.05.2024**, allowed the ejectment application. The aforesaid order was assailed through First Rent Appeal No.180 of 2024 before the learned VII-Additional District Judge, Karachi Central, which was dismissed through the impugned order, which has been challenged through instant constitutional proceedings.

3. Precisely, the record shows that the respondent/applicant sought eviction of the opponent/tenant on the grounds of genuine personal need and willful non-payment of rent. The landlord-tenant relationship and the agreed rent were not disputed. The opponent only gave a formal denial of personal need without any real challenge, and no such issue was raised during cross-examination, leaving the applicant's testimony consistent and credible.

4. Learned counsel for the petitioner contends that the impugned judgment and order are not in accordance with law and procedure, having been passed in a mechanical, arbitrary, and fanciful manner. He further submits that both the courts below failed to adhere to the settled legal parameters governing the determination of personal bona fide need and did not properly assess the evidence in that regard. It is argued that the impugned decisions suffer from illegality and material irregularity as well as from non-reading and misreading of evidence, rendering them unsustainable in law and liable to be set aside. He has relied upon the case of *Mehboob Alam v. Miss Tehseen Shafqat Khan* [PLD 2001 Karachi 238], *Muhammad Kashif Kamal Siddiqui v. Mirza Farooq Baig* [1990 MLD 1009], *Sh. Muhammad Khalid v. Fakhruddin* [1992 CLC 2307] and *M/s. Sattar Brothers v. M/s. Hanif Jee & Sons* [SBLR 2005 Sindh 1061].

5. Conversely, learned counsel for respondent No.1, while supporting the order of the learned Rent Controller and the judgment of the appellate court, contended that both are well-reasoned and judicious. He has submitted that the indolent and negligent conduct of the petitioner is evident from the record and is duly reflected in the concurrent findings of the courts below. It is thus urged that the petitioner is not entitled to any leniency and that the instant petition, being devoid of merit, is liable to be dismissed with costs. He has relied upon the case of *Mst. Mussarrat Shaheen v. Mst. Verbeena Khan Afroz and others* [2024 SCMR 1796], *Syed Muhammad Shah v. Ghulam Rabbani and another* [2007 SCMR 1917], *Syed Yousif Ali through L.Rs. v. Muhammad Hasham through LRs and others* [2006 SCMR 830], *Muhammad Ashraf v. Philip Javed and 2 others* [2014 MLD 297], *Mansoor-il-Haque Solangi v. Pakistan Industrial Development Corporation (Pvt) Ltd., (PIDC) and 2 others* [2023 MLD 1556], *Custom*

Public School through Liaison Officer v. Aftab Ahmed and 2 others [2019 CLC 1774], *Mst. Hawa Abdul Razzak v. Abdul Rehman Taar Wala and 2 others* [2024 YLR 269], *Muhammad Salik Akhtar through Attorney v. Muhammad Obaid and 3 others* [PLD 2023 Sindh 411].

6. I have heard learned counsel for the parties and examined the material available on record.

The arguments put forward by learned counsel for the petitioner are not convincing and lack solid legal grounds. The allegations of arbitrariness, illegality, and misreading of evidence are vague and unsupported by specific reasoning. The submissions mainly challenge the appreciation of evidence rather than pointing out any clear legal error. On the other hand, in my view, the submissions of the learned counsel for respondent No.1 are based on well-established legal principles. He has skillfully supported his arguments by referring to authoritative decisions of the superior Courts, which clearly explain the legal issues involved.

7. From perusal of the impugned order of the trial court dated **14.05.2024**, it appears that the learned Rent Controller while deciding the rent application recorded its findings that the relationship of landlord and tenant was admitted and that the applicant had proved both grounds of personal bona fide need and willful default. The applicant's statement on oath, consistent with his pleadings and unshaken in cross-examination, was held sufficient to establish personal need, while the opponent failed to substantiate his plea of having vacated the premises or paid rent, as his side was closed after repeated opportunities. Accordingly, the rent application was allowed with a direction to the opponent to vacate the premises within one month.

8. Whereas, through the impugned judgment dated **18.04.2025**, the appellate court, upon reappraisal of the record, observed that the tenant had taken contradictory stands regarding the alleged handing over of possession and payment of rent, rendering his defence unreliable. It was noted that he failed to produce any admissible evidence, particularly as his attorney did not present himself for cross-examination, depriving the affidavit-in-evidence of legal worth. The court further observed that the landlord's testimony on the issues of willful default and personal bona fide need remained consistent, credible, and unshaken, and, upon

reliance on settled legal principles, held that both grounds stood duly established, leading to the dismissal of the appeal.

9. The findings recorded by both the learned courts below appear to be well-reasoned, based on proper appraisal of the pleadings, evidence, and applicable legal principles. The tenant's contradictory and unsupported pleas were rightly disbelieved, particularly in view of his failure to produce admissible evidence or subject his attorney to cross-examination, rendering his defence devoid of probative value. Conversely, the landlord's consistent and unshaken testimony, corroborated by settled jurisprudence on willful default and personal bona fide need, was sufficient to sustain the claim. The concurrent conclusions thus rest on sound reasoning and warrant no departure.

10. Besides, the jurisdiction conferred under Article 199 of the Constitution is discretionary with the objects to foster justice in aid of justice and not to perpetuate injustice¹. It may also be observed that the ambit of a writ petition is not that of a forum of appeal, nor does it automatically become such a forum in instances where no further appeal is provided², and is restricted inter alia to appreciate whether any manifest illegality is apparent from the order impugned. It is settled law that discretionary findings of a subordinate forum, if based on sound principles, are not open to interference unless shown to be contrary to law.

11. It is also well settled principle of law that the High Court in exercise of its constitutional jurisdiction is not supposed to interfere in the findings on the controversial question of facts, even if such findings are erroneous. The scope of the judicial review of the High Court under Article 199 of the Constitution in such cases, is limited to the extent of mis-reading or non-reading of evidence or if the findings are based on evidence which may cause miscarriage of justice but it is not proper for this Court to disturb the findings of facts through reappraisal of evidence in writ jurisdiction or exercise this jurisdiction as substitute of revision or appeal. The Supreme Court of Pakistan in the case of *Farhat Jabeen v. Muhammad Safdar and others* [2011 SCMR 1073] has held as under:-

¹ Muslim Commercial Bank Ltd. through Attorney v. Abdul Waheed Abro and 2 others [2015 PLC 259]

² Shajar Islam v. Muhammad Siddique [PLD 2007 SC 45] & Arif Fareed v. Bibi Sara and others [2023 SCMR 413].

"Heard..... it is settled rule by now that interference in the findings of facts concurrently arrived at by the courts, should not be lightly made, merely for the reason that another conclusion shall be possibly drawn, on the reappraisal of the evidence; rather interference is restricted to the cases of misreading and non-reading of material evidence which has bearing on the fate of the case."

12. In the present matter, both the courts below have correctly applied the statutory tests envisaged under Section 15(2)(i) and (ii) of the Sindh Rented Premises Ordinance, 1979, in concluding that the relationship of tenancy, default, and personal bona fide need stood proved. It is well established that a landlord's sworn and uncontested statement is enough to prove genuine personal need. Regarding default, the opponent's claim of handing over possession on 06.12.2019 based on an alleged undertaking was not proven, as the document was never produced and was denied, making the defence without evidentiary support.

Apparently, no illegality, material irregularity, or perversity is discernible in the concurrent findings of the courts below. The learned counsel for the petitioner has failed to demonstrate any ground warranting interference therewith. The constitutional jurisdiction of this Court, being limited in scope, may be exercised only in cases of jurisdictional error or manifest miscarriage of justice, none of which are reflected in the present case. The case law cited by learned counsel for the petitioner have been examined and found distinguishable on facts, and, therefore, inapplicable to the present case.

13. For the foregoing reasons, the petition seeking interference with concurrent findings of fact recorded by the trial and appellate courts, which disclose no jurisdictional defect or legal infirmity are not maintainable under Article 199 of the Constitution. Hence, instant petition, being devoid of merit, is dismissed alongwith pending applications.

JUDGE