

*Order Sheet*  
**IN THE HIGH COURT OF SINDH, KARACHI**

**C.P. No.S-1041 of 2025**

[Mst. Sakina since deceased through LRs.

vs.

Abdullah Soomro since deceased through LRs.& Others]

Petitioner	Through Mr. Sajid Hussain Shar, Advocate.
Date of Hearing:	03.10.2025.
Date of Order:	03.10.2025.

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**ARSHAD HUSSAIN KHAN, J.-** Through instant constitutional petition, the petitioners have challenged the order dated 21.08.2025, passed by learned XII-Additional District Judge/Model Civil Appellate Court, Karachi [South] in First Rent Appeal No.93 of 2025, whereby the appeal was dismissed and the ejectment order dated **11.03.2025**, passed by the learned Ist Rent Controller, Karachi (South) in Rent Case No.885 of 2023, filed by respondent No.1, was maintained. Both the said orders collectively shall hereinafter be referred to as the “**impugned orders**”.

2. Briefly stated, before the learned Rent Controller, Abdullah Soomro [respondent No.1] filed an ejectment application under Section 15 of the Sindh Rented Premises Ordinance, 1979 (the **Ordinance 1979** ), seeking eviction of the petitioners/opponents on the grounds of default in payment of rent and personal bona fide need in respect of the premises, viz. Flat No. 1, Amina Abdullah Soomro Manzil, Hasan Manzil, Plot No.7/18, Soomro Gali, Jamila Street, Nishtar Road, Karachi (the “**demised premises**”), with the following prayers :

- a) To pass order for ejectment of opponent or any person(s) found in possession from the demised premises ie. Flat No. 1, Amina Abdullah Soomro Manzil, Hasan Manzil, Plot No. 7/18, Soomro Gali, Jamila Street, Nishtar Road, Karachi, and direct him or any other person found in possession to handover peaceful physical possession of demised premises to the applicant and further direct the opponent to pay/clear arrears all utility bills as well as monthly rent up to date.
- b) Grant such further relief or relieves which this Hon'ble Court may deem fit and proper in the circumstances of the case.

3. Before the learned trial court, the petitioner/opponent, Mst. Sakina Bai (since deceased), through her legal heir, Mst. Seema widow of Ghulam Qadir, filed a written statement wherein she denied the existence of a landlord-tenant relationship, asserting that the rent application was not maintainable in law in the absence of any jural relationship between the parties. It was further contended that the respondent/applicant had no cause of action. She also claimed that her mother-in-law, namely Mst. Sakina Bai, had purchased the demised premises from the applicant, Abdullah Soomro, in the year 1995, and since then, the family had been in peaceful possession thereof. On these premises, dismissal of the ejectment application was sought. Thereafter, issues were framed, evidence of both sides was recorded, and upon conclusion of the proceedings, the learned Rent Controller allowed the ejectment application, directing the petitioner/opponent to vacate the demised premises within thirty (30) days from the date of the impugned order dated 11.03.2025.

Against the aforesaid order of the learned Rent Controller, Karachi, [South] the petitioner/opponent has filed First Rent Appeal No.93/2025, which was dismissed by XIIth Additional District Judge, Karachi [South] through order dated 21.08.2025. The petitioner herein filed instant petition against the concurrent findings of the two courts below.

4. Learned counsel for the petitioner contended that the impugned orders passed by both the courts below are bad in law as well as on facts, and are, therefore, unsustainable and liable to be set aside. It is argued that the courts below have misread and misconstrued the evidence, as the findings recorded are unrelated to the actual facts and legal issues involved. It is further contended that respondent No.1 failed to produce any valid title documents to establish the ownership of the premises or to prove the existence of a landlord-tenant relationship, an essential precondition for invoking jurisdiction under the Sindh Rented Premises Ordinance, 1979. It is also contended that the dispute is of a purely civil nature and does not fall within the ambit of rent laws. It is argued that the findings

recorded by the courts below regarding alleged bona fide personal requirement of the respondent are also perverse and unsupported by evidence, particularly in view of the absence of any proven landlord–tenant relationship. It is further argued that both the forums below failed to consider the material fact that the demised premises had been purchased by the petitioner’s mother-in-law in the year 1995, and since then, the petitioner’s family has remained in uninterrupted possession thereof. Learned counsel concluded that the impugned orders, having been passed without proper appreciation of the evidence, law, and facts on record, are liable to be set aside.

5. Heard learned counsel for the petitioner, perused the record and the relevant law.

The arguments advanced by learned counsel for the petitioner have been duly considered in light of the material placed on the record. However, the contentions regarding absence of landlord–tenant relationship and ownership claim based on the alleged sale agreement do not find support from the evidence or the settled legal principles. The plea that the matter is of a purely civil nature is also misconceived, as the record demonstrates the existence of a subsisting tenancy, thereby rightly attracting the jurisdiction of the Rent Controller under the Sindh Rented Premises Ordinance, 1979.

6. From perusal of the record, it transpires that the learned Rent Controller, after framing the requisite issues and conducting a thorough appraisal of the evidence on record, rendered categorical findings to the effect that: (i) the relationship of landlord and tenant exists between the parties; (ii) the applicant has successfully demonstrated that he requires the subject premises for his bona fide personal need; (iii) the opponent is in default in payment of rent to the applicant; and (iv) the respondent/applicant has successfully established his case through both oral and documentary evidence. Consequently, the eviction application filed by the applicant was allowed.

7. As to the petitioner’s main plea regarding the non-existence of a jural relationship, the same is premised on an alleged Sale Agreement dated 27.04.1995 purportedly executed between the

respondent and Mst. Sakina Bai [mother-in-law of the petitioner]. However, it is by now a well-settled proposition of law that a tenant cannot claim ownership of rented premises merely on the basis of an unperformed sale agreement, as ownership can only be established through a decree for specific performance. The petitioner herself admitted in her evidence that neither she nor her mother-in-law instituted any suit for specific performance, nor was any witness examined to prove the said document. It also stands admitted that Mst. Sakina Bai passed away in the month of February 2000, and neither she during her lifetime nor her legal heirs thereafter took any steps for transfer of title or even issued a legal notice to the respondent in this regard. In these circumstances, the petitioner cannot legitimately dispute the respondent's status as landlord within the meaning of Section 2(f) of the Sindh Rented Premises Ordinance, 1979. **On the contrary**, the respondent produced in evidence the registered conveyance deed, *Iqrarnama*, and rent receipts issued in the name of Mst. Sakina Bai, all of which clearly establish that the respondent is the lawful owner of the demised premises and that Mst. Sakina Bai was inducted therein as a tenant.

8. It is necessary to examine the nature of possession held by the petitioner's family since 1995 in relation to the alleged sale agreement. The law recognizes that an unperformed sale agreement does not automatically confer ownership rights, absent specific performance or lawful transfer of title. While the petitioner's family claims peaceful possession since that time, the record does not demonstrate that such possession has ripened into ownership or adverse possession, nor does it clearly show cessation of the tenancy.

Furthermore, the evidence brought on record indicates issuance of rent receipts and acknowledgment of rent payments, which supports the existence of a landlord-tenant relationship between the parties. The jurisdiction of the Rent Controller under Section 15 of the Sindh Rented Premises Ordinance, 1979, was therefore properly invoked, as the tenancy relationship subsisted and rent default stood established. It is well-settled that the existence of a landlord-tenant relationship is a jurisdictional precondition for

proceedings under Section 15 of the Sindh Rented Premises Ordinance, 1979. In the present case, both the courts below have concurrently held, on the basis of the available material, that such relationship existed between the parties.

9. It is a settled proposition that a person who is in possession or occupation of the premises belonging to another, even if he does not expressly agree to pay rent, is bound in law to pay rent as consideration for such occupation. Such a person is deemed a tenant within the meaning of the Sindh Rented Premises Ordinance, 1979.<sup>1</sup> Likewise, any person who occupies premises without setting up a legally adverse title is, by fiction of law, treated as a tenant.<sup>2</sup>

Having addressed the question of tenancy and default, the next aspect is the landlord's bona fide personal need. The respondent testified that the premises were required for his son, and this statement remained unchallenged during cross-examination; therefore, it stands proved. Reliance is placed on *Pakistan Institute of International Affairs v. Naveed Merchant* (2012 SCMR 1498), wherein the Supreme Court held that an un-rebutted statement of the landlord on oath regarding personal requirement is to be accepted as bona fide.

10. It is also a well-settled principle that the constitutional jurisdiction of this Court under Article 199 of the Constitution of Pakistan is supervisory in nature and not appellate. The High Court does not re-appraise evidence or substitute its own findings for those concurrently recorded by the courts below, except where it is shown that the subordinate courts acted without jurisdiction, committed manifest illegality, or rendered findings so perverse as to result in a miscarriage of justice. The Hon'ble Supreme Court, in the case of *M. Hamad Hassan v. Mst. Isma Bukhari* [2023 SCMR 1434], has emphasized that the right to appeal is a statutory creation, and in the absence of a second appeal, the appellate court's decision is final on factual determinations.

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<sup>1</sup> *Muhammad Shabbir v. Hamed Begum* [1992 MLD 323]

<sup>2</sup> *Saifullah and another v. Chaudhry Ghulam Ghous* [2000 CLC 1841]

11. Applying these settled principles to the present case, this Court finds no ground for interference, as the concurrent findings recorded by the learned Rent Controller and the Appellate Court suffer from no legal infirmity, jurisdictional defect, or misreading of evidence warranting intervention under Article 199 of the Constitution. Consequently, this constitutional petition stands dismissed in limine.

JUDGE

Jamil\*