

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P No. S-295 of 2025

[Muhammad Shahid v. Province of Sindh & others]

Petitioner : Muhammad Shahid through his
Special Attorney Mst. Nazish through
Mr. Muhammad Nazar Siyal,
Advocate.

Respondents No.1to3 : Nemo.

Date of Hearing : 16.02.2026

Date of Judgment : 16.02.2026

JUDGMENT

RIAZAT ALI SAHAR. J. - Through the instant Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner has called in question the judgment dated 15.07.2025 passed by the learned 5th Additional District Judge, Hyderabad in First Rent Appeal Nos.63 of 2024 and 113 of 2024, whereby the appeals filed under Section 21 of the Sindh Rented Premises Ordinance, 1979 were dismissed and the judgment dated 03.04.2024 passed by the learned Rent Controller, Hyderabad, as well as the order dated 09.09.2024 passed in Rent Execution No.64 of 2024, were maintained. Hence, the petitioner has sought following reliefs:-

- (a) To order setting aside the order dated 15-07-2025 to the extent of recalling the interim order u/s 21 of SRPO without hearing, the application which is utter violation of well known principle audi alterum partum, therefore, direct the learned firsts appellate Court to hear the appeal and application either independently or together.
- (b) That this Honorable Court to restrain the respondents from interfering and disturbing the shop of the petitioner directly or indirectly by themselves or through their sub-ordinates or agents or through

other agency whatsoever till the final disposal of this petition.

- (c) Costs of the petition be saddled upon the respondents.
- (d) Any other orders as this Honourable Court deems fit and proper in the arisen circumstances of the case.

2. The background of the case is that the respondent Muhammad Farooque filed Rent Application No.288/2021 before the learned Rent Controller, Hyderabad, seeking eviction of the petitioner Muhammad Shahid from Shop No.33 along with roof and boundary wall in Liaquat Shoe Market, Station Road, Hyderabad, on the grounds of willful default and *bona fide* personal need. The petitioner contested the application and denied the relationship of landlord and tenant, asserting that he was tenant of Mst. Firdous Bano (through her daughter/attorney Mst. Nazish) on the basis of certain tenancy agreements and a sale agreement allegedly executed in the year 1990.

3. After recording evidence of both sides, the learned Rent Controller, vide judgment dated 03.04.2024, allowed the rent application, holding that the relationship of landlord and tenant stood established between the respondent and petitioner; that the petitioner had committed default in payment of rent and that the requirement pleaded by the landlord was *bona fide*. Consequently, eviction was ordered.

4. The respondent thereafter filed Rent Execution No.64/2024, which was allowed on 09.09.2024 and possession of the demised premises was delivered to the respondent through bailiff in execution of the decree. The petitioner preferred First Rent Appeal No.63 of 2024 against the judgment dated 03.04.2024 and First Rent Appeal No.113 of 2024 against the execution order dated 09.09.2024. Both appeals were heard together and dismissed by the learned 5th Additional District Judge, Hyderabad, through consolidated judgment dated 15.07.2025, maintaining the findings of the learned Rent Controller and holding that no material illegality or irregularity had been committed. Consequently, the petitioner, being aggrieved, has now invoked the constitutional jurisdiction of this Court.

5. Learned counsel for the petitioner contended that the courts below have misread and non-read material evidence and failed to appreciate that the respondent is not the lawful owner/landlord of the demised premises. He contended that the shop had been sold to Mst.Firdous Bano in 1990 and the petitioner is her lawful tenant under renewed tenancy agreements. Learned counsel contended that the application under Order I Rule 10 CPC filed by Mst. Nazish was wrongly dismissed and that the petitioner was condemned unheard in respect of his application under Section 21 of the Sindh Rented Premises Ordinance, 1979. He further contended that the execution proceedings were conducted without proper opportunity and that the impugned judgments suffer from material illegality and jurisdictional defect. Learned counsel prayed for remand of the matter for fresh decision after recording evidence and granting full opportunity of hearing.

6. I have heard learned counsel for the petitioner and examined the record with his assistance. Before adverting to the merits of the controversy, it is necessary to reiterate the well-settled parameters governing the exercise of constitutional jurisdiction under Article 199 of the Constitution.

7. It is by now trite law that this Court does not sit as a court of appeal over decisions rendered by statutory forums constituted under special enactments. The scheme of the Sindh Rented Premises Ordinance, 1979 provides a complete hierarchy of remedies. An order passed by the Rent Controller is appealable under Section 21 before the Appellate Court, whose decision is declared final under the statutory framework. Once the statutory right of appeal has been availed and exhausted, this Court, in exercise of constitutional jurisdiction, cannot reappraise evidence or reassess factual determinations merely because another view is possible.

8. The supervisory jurisdiction of this Court is limited to examining whether the impugned orders suffer from jurisdictional defect, patent illegality, perversity, misreading or non-reading of material evidence, or violation of mandatory provisions of law. It cannot be invoked as a substitute for a second appeal nor can it be exercised to undertake a fresh evaluation of evidence already appreciated by two forums below.

9. The Honourable Supreme Court in the seminal judgment **Shakeel Ahmed and another v. Muhammad Tariq Farogh and others (2010 SCMR 1925)** has conclusively settled that the appellate authority constituted under the Sindh Rented Premises Ordinance, 1979 is the final statutory forum and the remedy under Article 199 cannot be employed to challenge the correctness of findings simply because an aggrieved party seeks a further round of scrutiny. The relevant extract reads as follows:

“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.”

This authoritative pronouncement was subsequently followed by this Court in **Messrs Atif Ali and another v. Mst. Noor Jahan through Attorney and others (2015 CLC 310)**, wherein the same principle was reaffirmed that the High Court cannot be converted into a fact-finding or appellate forum in rent matters merely upon the dissatisfaction of a litigant with the result before the appellate authority.

10. The same view has consistently been endorsed in later judgments of this Court, including **C.P. No. S-520 & 521 of 2019 (Principal Seat)**, as well as **Noman Saleem v. Rehmat Elahee & others (C.P. No. S-1405 of 2024, Principal Seat)**. Collectively, this line of authorities underscores that the statutory hierarchy under the Sindh Rented Premises Ordinance, 1979 is complete in itself; the appellate authority is designated as the *final forum* and its judgment cannot be reopened through constitutional proceedings except on the most exceptional grounds of jurisdictional defect, *mala fides*, or violation of law. In view of the settled jurisprudence, any attempt to revisit the factual findings or re-evaluate the evidence already adjudicated upon by the appellate authority would amount to avoiding the legislative framework, which is impermissible in constitutional jurisdiction.

11. However, it is equally a well-settled principle of law that the constitutional jurisdiction of this Court, though limited, is not entirely ousted in matters where concurrent findings of the forums below suffer from fundamental defects. Interference may be warranted where such findings are demonstrably tainted by non-reading or misreading of material evidence, are based upon erroneous assumptions of fact, reflect a misapplication of settled legal principles, or disclose an excess or abuse of jurisdiction. These limited yet well-recognized exceptions operate to ensure that gross illegality or perversity does not remain immune from judicial scrutiny merely because the matter arises under a special statute.

12. In the present case, the learned Rent Controller framed specific points for determination including maintainability, existence of landlord-tenant relationship, default in payment of rent and *bona fide* requirement. After recording detailed evidence of both parties and their witnesses, the learned Rent Controller returned categorical findings in favour of the respondent. The learned Appellate Court independently reappraised the entire material and concurred with those findings. The primary defence of the petitioner before the courts below was denial of relationship of landlord and tenant and assertion of title in favour of Mst. Firdous Bano on the basis of an unregistered sale agreement of the year 1990. Both courts have concurrently held that a mere agreement to sell does not confer title and that no suit for specific performance or declaration of title was ever instituted by the alleged purchaser for more than three decades. It was further noted that the application under Order I Rule 10 CPC filed by Mst. Nazish claiming ownership was dismissed and that order was never challenged.

13. It is settled law that in rent proceedings the question of title is external to the determination of tenancy. Once the landlord establishes the relationship of landlord and tenant, disputes regarding ownership cannot defeat eviction proceedings. The Appellate Court has rightly observed that the determining factor is the existence of tenancy, not perfection of title. The record further reveals that the petitioner failed to produce reliable documentary evidence showing payment of rent to the respondent. The learned Rent Controller recorded a finding of willful default based upon appreciation of oral and documentary evidence. The plea of *bona fide* requirement was also accepted after due

consideration. These are pure findings of fact, concurrently recorded by two courts of competent jurisdiction.

14. As regards the grievance relating to execution proceedings, the record shows that the execution application was allowed pursuant to a valid decree and possession was delivered through bailiff in accordance with law. Once the decree had attained finality before the Appellate Court, the Executing Court was bound to enforce it. No jurisdictional defect or procedural illegality has been demonstrated in execution. The contention that the petitioner was condemned unheard or that opportunity under Section 21 was denied is not borne out from the record. The appeals were admitted, notices were issued, counsel were heard and a reasoned judgment was delivered by the learned Appellate Court. The mere fact that interim relief was recalled does not, by itself, constitute violation of any fundamental right or jurisdictional error.

15. Meaningfully, the petitioner seeks in substance a reappraisal of evidence and reconsideration of factual conclusions already examined by the Rent Controller and the Appellate Court. This Court, while exercising constitutional jurisdiction, cannot convert itself into a third forum of appeal to reassess credibility of witnesses, re-weigh documentary exhibits or substitute its own conclusions for those concurrently recorded by statutory courts. No material has been pointed out demonstrating that the impugned judgment dated 15.07.2025 suffers from misreading or non-reading of evidence, or that it is based upon no evidence. There is no allegation substantiated on record of *mala fides*, *coram non judice* proceedings or violation of mandatory provisions of law. The findings are reasoned, speaking and supported by evidence. Furthermore, it is relevant to mention here that the original judgment dated 03.04.2024 passed by learned Rent Controller in Rent Application No.288 of 2021 was not challenged within time; however, after the order dated 09.09.2024 passed in Execution Proceedings, the petitioner has questioned the original judgment along with the order passed in the execution proceedings in Rent Appeal No.113 of 2024 filed on 09.10.2024, as such, it had become time barred. In these circumstances, the instant petition is not maintainable in view of the settled principle that constitutional jurisdiction cannot be invoked as a substitute for a second appeal against concurrent findings under the Sindh Rented

Premises Ordinance, 1979. Entertaining such petitions would defeat the legislative intent of providing expeditious and final adjudication in rent matters and would open floodgates for endless litigation.

16. For what has been discussed above, I find no jurisdictional defect, illegality or perversity in the impugned consolidated judgment dated 15.07.2025 passed by the learned 5th Additional District Judge, Hyderabad, nor in the original judgment dated 03.04.2024 and execution order dated 09.09.2024. The petition being devoid of merit and was accordingly **dismissed in *limine*** along with listed applications with no order as to costs through my short order dated 16.02.2026 and these are the reasons for the same.

JUDGE

Approved for Reporting

Abdullah Channa/PS