

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

C.P No. S-636 of 2025  
*[Manji & another v. Sham Raj & another]*

Petitioners:	Manji & another through Mr. Ansar Ali Shar, Advocate.
Respondents:	Sham Raj through Mr. Zaman Zeb Jatoi, Advocate.
Date of Hearing:	12.12.2025.
Date of Judgment:	29.12.2025.

**JUDGMENT**

**RIAZAT ALI SAHAR, J:** - Through this Constitutional Petition, the petitioners invoke the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, being aggrieved and dissatisfied with the impugned judgment dated 30.09.2025 passed by the learned District Judge, Tando Muhammad Khan in First Rent Appeal No.01 of 2025, whereby a well-reasoned judgment of the learned Rent Controller dated 06.05.2025 was set aside, resulting in grave miscarriage of justice, illegality and jurisdictional error, hence, calling for interference by this Court. Thus, petitioners are seeking following reliefs: -

- a)** *That the impugned judgment dated 30-09-2025, passed by the learned District Judge, Tando Muhammad Khan in First Rent Appeal No. 01 of 2025, be declared to be without lawful authority, void, and of no legal effect.*
- b)** *That the impugned judgment dated 30-09-2025 be set aside in its entirety, and the judgment dated 06-05-2025 passed by the learned Rent Controller / Senior Civil Judge-I, Tando Muhammad Khan be restored.*

- c) That any other relief deemed just and proper in the circumstances of the case be granted in favour of the petitioners.*

2. Learned counsel for the petitioners contended that the impugned judgment dated 30.09.2025 is patently illegal, without jurisdiction and the result of gross misreading and non-reading of evidence, warranting interference by this Court under Article 199 of the Constitution. He contended that the very foundation of proceedings under the Sindh Rented Premises Ordinance, 1979, the existence of a landlord–tenant relationship, was categorically denied by the petitioners and, after full trial, was expressly negated by the learned Rent Controller through a well-reasoned judgment dated 06.05.2025. Learned counsel contended that in the absence of any written rent agreement, rent receipts, utility bills, or independent documentary proof, the respondent’s bald claim of an oral tenancy could not be accepted, particularly in the face of clear admissions made by the respondent’s attorney during cross-examination that no such documents existed and that earlier proceedings before the Mukhtiarkar had treated Petitioner No.1 as an occupier and not a tenant. He further contended that the so-called Mukhtiarkar’s report was procured in collusion, lacked lawful demarcation and could not confer jurisdiction upon rent authorities nor override settled principles that disputes involving denial of tenancy fall exclusively within the domain of the Civil Court. Learned counsel emphasised that the learned Appellate Court travelled far beyond its statutory mandate by determining questions of ownership and issuing coercive directions for eviction and deposit of alleged rent, thereby committing a jurisdictional error and causing grave miscarriage of justice, which renders the impugned judgment void and of no legal effect.

3. Learned counsel for the respondents vehemently contended that the instant Constitutional Petition is misconceived, not maintainable and liable to be dismissed in limine, as the impugned judgment dated 30.09.2025 has been passed strictly in accordance with law after proper appreciation of the material

available on record. He contended that the learned Appellate Court rightly exercised its jurisdiction under the Sindh Rented Premises Ordinance, 1979, having found sufficient evidence to establish the existence of a landlord–tenant relationship between the parties, and that the findings of the learned Rent Controller were perverse, based on misreading and non-reading of evidence. Learned counsel contended that oral tenancy is a legally recognized mode of tenancy under the rent laws and does not mandatorily require a written agreement or rent receipts, particularly where possession of the premises by the occupant is admitted. He further contended that the report of the Mukhtiarkar, prepared pursuant to lawful local inspection, corroborated the respondent’s ownership and tenancy claim and that no mala fide or collusion could be attributed merely on conjectures. Learned counsel further contended that the petitioners, being in occupation of the premises, were rightly directed to deposit rent, as equity and justice demand that no person should be allowed to enjoy property without payment. He lastly contended that the petitioners have an alternate statutory remedy and that this Court, while exercising constitutional jurisdiction under Article 199 of the Constitution, ought not to interfere with concurrent or appellate findings of fact unless shown to be arbitrary, perverse, or without jurisdiction, which, according to the respondents, is not the case herein.

4. Heard the learned counsel for the parties at length and perused the record with their able assistance. The controversy essentially revolves around the scope of interference by this Court in constitutional jurisdiction against a judgment passed by the learned Appellate Court under the Sindh Rented Premises Ordinance, 1979, particularly where the Appellate Court has reversed the findings of the Rent Controller after re-appraisal of material available on record.

5. At the outset, it is settled law that the constitutional jurisdiction of this Court under Article 199 of the Constitution is supervisory and not appellate and cannot be invoked as a substitute for a statutory appeal or for re-appraisal of evidence, particularly in

matters governed by special laws such as the Sindh Rented Premises Ordinance, 1979. The Honourable Supreme Court in *Shakeel Ahmed v. Muhammad Tariq Farogh* (2010 SCMR 1925) has conclusively held that the appellate authority under the said Ordinance is the final statutory forum and that mere disagreement with its findings does not warrant interference in constitutional jurisdiction; a principle consistently followed by this Court, inter alia, in *Messrs Atif Ali v. Mst. Noor Jahan* (2015 CLC 310) and subsequent cases. The settled jurisprudence thus makes it abundantly clear that the High Court cannot be converted into a further fact-finding or appellate forum and interference is permissible only in exceptional circumstances such as lack of jurisdiction, mala fides, or patent illegality, none of which permit reopening factual determinations already concluded by the competent appellate authority.

6. Applying the above principle to the present case, it is observed that the learned Appellate Court, while passing the impugned judgment dated 30.09.2025, has examined the entire record, re-evaluated the oral and documentary evidence and has given detailed reasons for disagreeing with the conclusions drawn by the learned Rent Controller. The findings recorded by the Appellate Court cannot be termed as perverse or arbitrary merely because they are adverse to the petitioners.

7. The principal contention of the petitioners is that the relationship of landlord and tenant was not established and that the learned Appellate Court wrongly relied upon an alleged oral tenancy. This argument, however, overlooks the settled legal position that oral tenancy is a legally recognized mode of tenancy under rent laws and absence of a written rent agreement is not fatal where possession and surrounding circumstances indicate tenancy.

8. The Honourable Supreme Court in the case of *Zafar Iqbal v. Syed Riaz Hussain Shah* (2025 SCMR 690) has authoritatively clarified that rent proceedings are summary in nature and strict application of the Qanun-e-Shahadat, 1984 is

neither required nor desirable. What is required is application of general principles of evidence on the standard of preponderance of probability, keeping in view Article 10-A of the Constitution. The Apex Court has further held that ownership of the property gives rise to a presumption of landlord-ship and a person in possession is presumed to be a tenant unless evidence to the contrary is produced. This presumption stands fortified where the occupant fails to establish any independent legal right to remain in possession other than permissive occupation.

**9.** In the present case, the petitioners have not disputed their possession of the premises. Their denial of tenancy is based primarily on absence of documentary proof. However, as held in 2025 SCMR 690, strict proof of documents under Articles 17 and 79 of the Qanun-e-Shahadat is not mandatory in rent proceedings, and insistence upon such technicalities defeats the very object of rent laws, which aim at expeditious resolution of disputes. It is also a settled proposition that mere denial of tenancy does not oust the jurisdiction of rent authorities. A person who disputes the relationship of landlord and tenant is required to substantiate such plea through cogent material. In the present case, no title document, sale deed, or decree of declaration has been produced by the petitioners to establish an independent right to occupy the premises.

**10.** The learned Appellate Court has further taken note of the conduct of the petitioners, which clearly indicates permissive occupation. The direction to deposit rent during pendency of proceedings cannot be termed as coercive or without jurisdiction, as such directions are well within the competence of rent authorities to prevent unjust enrichment.

**11.** This Court finds no force in the argument that the learned Appellate Court exceeded its jurisdiction. On the contrary, the Appellate Court has acted strictly within the parameters laid down by law, corrected the errors committed by the Rent Controller, and has rendered findings supported by reasons and material on

record. It is a settled rule of prudence that constitutional jurisdiction should not be exercised to unsettle well-reasoned appellate findings, particularly in rent matters, unless a glaring illegality is shown. No such illegality, perversity, or jurisdictional defect has been pointed out in the impugned judgment.

**12.** For the foregoing reasons, I am of the considered view that no illegality, perversity, jurisdictional defect, or violation of settled principles of law has been demonstrated, which warrant interference in the exercise of constitutional jurisdiction under Article 199 of the Constitution. The impugned judgment dated 30.09.2025 passed by the learned District Judge, Tando Muhammad Khan, in First Rent Appeal No.01 of 2025, calls for no interference. Consequently, this Constitutional Petition is **dismissed**, being devoid of merit, along with all pending applications, if any. The parties shall, however, bear their own costs.

**JUDGE**

\*Abdullahchanna/PS\*