

IN THE HIGH COURT OF SINDH AT KARACHI

Const: Petition No. S-1126 of 2024

[Habib Ahmed.....v.....Mustafa & others]

Const: Petition No. S-1127 of 2024

[Muhammad Hanifv.....Mustafa & others]

Petitioners through : Mr. Muhammad Arif, Advocate.

Respondents through : Mr. Muhammad Naseer, Advocate.

Date of hearing : 14.09.2026

Date of Judgment : 15.09.2026

Date of Announcement : 16.09.2026

ORDER

Muhammad Saleem Jessar, J.:- These petitions assail the concurrent findings of the trial Court dated 27.02.2024¹ as well as first Appellate Court dated 07.09.2024². Since these petitions are interlinked, therefore, they were heard conjunctively and would be determined vide this common order.

2. The facts in *minutiae* are that the respondent No.1 being landlord filed a Rent Case No.170 of 2023 and Rent Case No. 171 of 2023 before learned Rent Controller-XII, South at Karachi under the provisions of Section 8 of Sindh Rented Premises Ordinance, 1979 (“SRPO”) for fixation of fair rent of Shop No.B-8, Ground Floor, measuring 130 square feet, Marvi Building, Mochi Gali, Saddar Karachi and Shop No.B-7, Ground Floor, measuring 130 square feet, Marvi Building, Mochi Gali, Saddar Karachi (“**tenement**”) which was allowed by the learned Rent Controller vide order dated 27.02.2024 and the learned Rent Controller fixed the rent of tenement of Rs.20,000/- per month. The petitioner impugned the findings of the learned Rent Controller

¹ Rent Case No.170/2023, Rent Controller XII South, Karachi (in C.P. No.S-1126/2024) and Rent Case No. 171/2023, Rent Controller XII South, Karachi (in C.P. No.S-1127/2024).

² FRA No.63/2024 and FRA No.92/2024, Additional District Judge-XII South, Karachi (in both petitions).

before First Appellate Court by filing FRAs No.63 and 92 of 2024 which were dismissed vide consolidated judgment dated 07.09.2024 and order of learned Rent Controller was maintained, hence the petitioner before this Court is against concurrent findings of the court below.

3. The crux of arguments of learned counsel for the petitioner is that the respondent landlord failed to produce rent deposit receipt of adjoining tenants and shopkeepers to prove that the other tenants and shopkeepers are paying the rent better than the petitioner. He next contended that only an agreement was produce which is not sufficient to meet the requirements of Section 8 of the Sindh Rented Premises Ordinance, 1979, hence the matter is liable to be remanded to the Rent Controller for a decision afresh. He further contended that subject tenement as well as complete building is dilapidated and will collapse soon and is not being maintained by the respondent landlord which fact also not considered by the Rent Controller. He further contended that concurrent findings cannot be treated as sacrosanct if found erroneous and same cannot shield erroneous decisions from correction. He lastly contended that the grounds for enhancement of rent as contained under Section 8 SRPO are lacking in this case, therefore, the rent fixed by the Rent Controller and affirmed by the Appellate Court are not tenable and matter may be remanded to the Rent Controller for decision afresh. To support his submissions, learned counsel for the petitioner relied upon the precedents reported as **2024 YLR 16 and 1995 CLC 202**.

4. In contrast, learned counsel for the respondent No.1 argued that concurrent findings of the Courts below are upon correct appreciation of law and facts presented by the respondent No.1 and concurrent findings cannot be disturbed, therefore, the petition may be dismissed. To answer the contention of learned counsel for the petitioner to the extent of requirements of Section 8 of SRPO, learned counsel contended that it is not necessary for the Rent Controller to take into consideration overall requirements regarding fixation of fair rent, if a single requirement is satisfied, that is enough for the increase of fair rent. So as to strengthens his contention, learned counsel relied upon the case laws reported as **PLD 2022 Sindh 52, 2018 SCMR 581, 2021 CLC 1936 AND 2023 SCMR 1147 and 2024 SCMR 781**.

5. I have heard learned counsel for the parties at length and have also scanned the material made available before me on record. The issue squarely revolves around Section 8 SRPO, therefore, I find it just and proper to refer

the section directly for a proper answer. The mechanism and procedure for fixation of fair rent is provided in section 8 SRPO, which reads as under:-

“8. Fair rent. ---(1) The Controller shall, on application by the tenant or landlord determine fair rent of the premises after taking into consideration the following factors:--

a) the rent of similar premises situated in the similar circumstances, in the same or adjoining locality;

b) the rise in cost of construction and repair charges;

c) the imposition of new taxes, if any, after commencement of the tenancy; and

d) the annual value of the premises, if any, on which property tax is levied.”

6. The plain language of Section 8(1) SRPO prima facie requires the Rent Controller to consider above four aspects while determining fair rent. All above four aspects are independent in nature and character therefore every independent aspect would be a factor affecting upon quantum of fair-rent but failure of any of them would not result in rejection of the application. The Apex Court in the case of Muhammad Farooq v. Abdul wahid Siddiqui (2014 SCMR 630) held as under:-

*“5. It is pertinent to note that in the case of Mst. Muneera Kaleemuddin noted hereinabove this Court has observed that the failure of the landlord to bring on record the material in respect of any of the four elements to show increase would not necessarily lead to the rejection of an application but it may affect the quantum of fair rent. In the case of Abdul Rehman (supra) this controversy seem to have been rested with lucid pronouncement that **the Rent Controller is not required to consider all the factors of Section 8 of the Ordinance as a composite whole rather these factors are independent or each other and in a given case may be supplemented for the purpose of fixation of a fair rent.** The submissions of the learned counsel for the petitioner on this point needs no further consideration.”*

7. I would also add that term “fair-rent” is not available for multiplicity of the existing/agreed rent but a reasonable appreciation of all the given factors so as to fix the fair-rent. Out of such factors, the one mentioned as “*the rent of similar premises situated in the similar circumstances, in the same or adjoining locality*” would be decisive one while other factors would independently cause effects upon quantum of fair-rent. Having said so, let’s examine the concurrent findings of the courts below. It is settled that learned trial Court i.e. Rent Controller is the fact finding authority and the purpose

of appellate jurisdiction is to reappraise and reevaluate the judgments and orders passed by the lower forum in order to examine whether any error has been committed by the lower court on the facts and/or law, and it also requires the appreciation of evidence led by the parties for applying its weightage in the final verdict. It is the prerogative of the Appellate Court to re-weigh the evidence or make an attempt to judge the credibility of witnesses, but it is the Trial Court which is in a special position to judge the trustworthiness and credibility of witnesses, and normally the Appellate Court gives due deference to the findings based on evidence and does not overturn such findings unless it is on the face of it erroneous or imprecise. Learned Appellate Court having examined entire record and proceedings made so available as well as having gone through the verdict of learned trial Court i.e. learned Rent Controller went on to hold as under:-

“16.....It is an open secret that during last fifteen years the prices of the real estate in the city have increased beyond ones imagination and certainly the price of demised premises has also increased and such increase ultimately enhances its rental value. Surely, over the period of rent of the demised premises has not increased in same proportion as that of cost of construction, value of the property and taxes. The opponent in his cross examination admitted that, “it is correct to suggest that no rent has been increased for the last six years”.

17. It is well settled law that while deciding fair rent application under section 8 of SRPO, 1979 the presence of all designated factors is not necessary.

[Emphasis supplied]

8. It is gleaned from appraisal of foregoing and it is not disputed that the rent of tenement had not been increased for last six years, whereas, Section 9 of SRPO clearly provides that fair rent once fixed can be increased after three years. The learned Appellate Court having examined the pros and cons reached to the conclusion that the respondent No.1/landlord entitled for fixation of fair rent as was found by the learned Rent Controller.

9. Admittedly, there has been increase in the property tax which, too, is indicative of the fact that there has been increase in annual value of the premises. I would add that an affirmation to any of the factors, detailed in section-8(1)(b) to (d) SRPO, shall be taken as an “adding factor” towards increase in the “monthly rent” which the Rent Controller or appellate Court finds reasonable in satisfaction of Section 8(1)(a) SRPO. Worth adding here

that a balance is always to be appreciated by the Rent Controller, including appellate Court, while fixing the fair-rent which must find strength with detailed factors as well reasonable approaches to available material and circumstances.

10. The legislative intent of the aforesaid provisions of Section 8 SRPO can be gauged from the very fact that it allows the (Rent) Controller to exercise his/her discretion in order to determine fair rent, which is premised on aforesaid factors, which includes rent of similar premises situated in similar circumstances in the same or adjoining locality, rise in cost of construction and repair charges, annual value of premises etc. Said factors can well be read so as to tentatively determine the rate of rent or the amount of rent as envisaged under Section 8 SRPO. In this regard, reliance can be made on the judgment reported as *State Life Insurance Corporation of Pakistan and another v. Messrs British Head and Footwear Stores and others* (2018 SCMR 581) in which the Hon'ble Supreme Court of Pakistan has held that:

“it is not necessary for a landlord to prove hike in respect of all four factors as detailed in section 8 of the Sindh Rented Premises Ordinance, 1979, or that all four factors must co-exist in each and every case seeking fixation of fair rent. Infact, the prime factor has always been the prevalent market rent of the similar premises situated in similar circumstances, in the same or adjoining locality.”

11. It also emerges from the record that the demised premises is situated at main Saddar which is a known commercial hub having high rates as well as the petitioner admitted before the learned Rent Controller during course of evidence that the rent of the tenement had not been increased for last six years. The facts and circumstances as well as concurrent findings tilt in favour of the respondent No.1/landlord.

12. It is common knowledge that the object of exercising jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (“Constitution”) is to foster justice, preserve rights and to right the wrong where appraisal of evidence is primarily left as the function of the trial court and, in this case, the learned Family Judge which has been vested with exclusive jurisdiction. In constitutional jurisdiction when the findings are based on mis-reading or non-reading of evidence, and in case the order of the lower fora is found to be arbitrary, perverse, or in violation of law or evidence, the High Court can exercise its jurisdiction as a corrective measure. If the error is so glaring and patent that it may not be acceptable, then in such

an eventuality the High Court can interfere when the finding is based on insufficient evidence, misreading of evidence, non-consideration of material evidence, erroneous assumption of fact, patent errors of law, consideration of inadmissible evidence, excess or abuse of jurisdiction, arbitrary exercise of power and where an unreasonable view on evidence has been taken. No such avenues are open in this case as both the judgments are well jacketed in law. It has been held time and again by the Apex Court that findings concurrently recorded by the courts below cannot be disturbed until and unless a case of non-reading or misreading of evidence is made out or gross illegality is shown to have been committed.³

13. In view of the rationale and deliberation delineated above, the petitions at hand are dismissed alongwith the application. The petitioners / tenants in both petitions are directed to vacate respective premises and hand over their vacant and peaceful physical possession to Respondent No. 1 / landlord within (60) sixty days from the date of this judgment positively without fail, subject to deposit of monthly rent with the Nazir of this Court for said period in lump-sum. Aforesaid deposit should be made by the petitioners / tenants within 15 days positively.

Karachi

Dated:15.09.2026.

Approved for Reporting.

Aadil Arab

Judge

Head of Const. Benches

³ Farhan Farooq v. Salma Mahmood (2022 YLR 638), Muhammad Lehrasab Khan v. Mst. Aqeel un Nisa (2001 SCMR 338), Mrs. Samina Zaheer Abbas v. Hassan S. Akhtar (2014 YLR 2331), Syed Shariq Zafar v. Federation of Pakistan & others (2016 PLC (C.S) 1069).