

IN THE HIGH COURT OF SINDH AT KARACHI

C.P No.S-385 of 2023

(Muhammad Waseem Ehtemam v. Kashif Uzair & others)

DATE	ORDER WITH SIGNATURE OF JUDGE.
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1. For orders on office objections.
2. For orders on CMA No.3066 of 2023.
3. For hearing on CMA No.3067 of 2023.
4. For hearing of main case.

Mr. M. Nizar Tanoli, Advocate for the Petitioners

Mr. Naseer Nihal Hashmi, Advocate for Respondent No.1.

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Date of hearing : 14.01.2026

Date of Decision : 09.04.2026

J U D G M E N T

Abdul Hamid Bhurgri, J.- Through the instant constitutional petition, the petitioner has challenged the concurrent findings recorded by the learned Rent Controller-VI, Karachi (South), in Rent Case No.605 of 2019, vide judgment dated 21.03.2022, and the judgment dated 08.03.2023 passed by the learned Additional District & Sessions Judge-XII (MCAC), Karachi South, in First Rent Appeal No.117 of 2022, whereby the eviction application filed by the respondent/landlord was allowed on the ground of default in payment of rent and the appeal preferred thereagainst was dismissed.

2. Briefly, the respondent is the landlord of Shop No.84, Ground Floor, admeasuring 205.49 square feet, situated in Atrium Mall, Saddar, Karachi ("the demised premises"), and the petitioner was inducted as tenant under a rent agreement dated 07.08.2018 at a monthly rent of Rs.80,000/-.

3. It is an admitted position that the petitioner instituted Civil Suit No.1148 of 2018 seeking specific performance of the rent agreement. During pendency of the said suit, the Civil Court directed the respondent to deposit the keys of the demised premises with the Nazir and directed the petitioner to collect the same and deposit rent in accordance with law. The respondent complied with such directions; however, the petitioner neither collected the keys nor deposited rent thereafter.

4. Consequently, alleging willful default in payment of rent from March 2019 onwards, the respondent filed Rent Case No.605 of 2019. After recording evidence, the learned Rent Controller allowed the

application, and the appeal preferred by the petitioner was dismissed by the learned appellate Court.

5. Learned counsel for the petitioner contended that possession was never lawfully delivered and, therefore, liability to pay rent did not arise. It was further contended that the findings recorded by the Courts below suffer from misreading and non-reading of evidence.

6. Conversely, learned counsel for the respondent submitted that tenancy stood admitted, possession was made available through Court orders, and the petitioner deliberately avoided compliance with judicial directions, thereby committing willful default.

7. I have heard learned counsel for the parties and examined the record.

8. It is an admitted position that the tenancy agreement exists between the parties. The petitioner himself instituted civil proceedings seeking enforcement of the same agreement, thereby acknowledging the landlord-tenant relationship. The record further reflects that, pursuant to directions of the Civil Court, the respondent deposited the keys with the Nazir and the petitioner was directed to collect the same and deposit rent. The respondent complied with such directions; however, the petitioner failed to collect the keys and also failed to deposit rent thereafter.

9. Once possession was made available through due process of Court, the petitioner could not avoid his obligation by deliberately abstaining from taking over the same. A tenant cannot be permitted to take advantage of his own inaction so as to defeat the statutory scheme governing payment of rent.

10. Under Section 10 of the Sindh Rented Premises Ordinance, 1979, a tenant is under a statutory obligation to pay or tender rent within the prescribed time, and in case of refusal by the landlord, to deposit the same before the Rent Controller. Failure to do so attracts the consequences contemplated under Section 16 of the Ordinance, which includes eviction on the ground of default.

11. In the present case, despite facilitative directions issued by the Civil Court enabling the petitioner to obtain possession and comply with his obligations, he neither collected the keys nor deposited rent before

the Rent Controller in terms of law. Such conduct clearly constitutes willful default and squarely attracts the penal consequences provided under the Ordinance.

12. It is also significant that the petitioner failed to enter the witness box despite repeated opportunities, which attracts adverse presumption under Article 129(g) of the Qanun-e-Shahadat Order, 1984. The learned Rent Controller was, therefore, justified in relying upon the uncontroverted evidence of the respondent.

13. Both the learned Rent Controller and the learned appellate Court, after proper appraisal of evidence, have concurrently held that the petitioner committed willful default. The findings are neither perverse nor arbitrary and do not suffer from misreading or non-reading of material evidence or any jurisdictional defect.

14. It is well settled that this Court, in exercise of constitutional jurisdiction under Article 199 of the Constitution, does not act as a Court of appeal and ordinarily does not interfere with concurrent findings of fact unless such findings are shown to be without lawful authority or suffering from patent illegality. Reliance in this regard may be placed upon ***Mst. Farhat Jabeen vs. Muhammad Safdar and others (2011 SCMR 1073)*** and ***Shakeel Ahmed and another vs. Muhammad Tariq Farogh and others (2010 SCMR 1925)***.

15. No such defect has been pointed out in the impugned judgments warranting interference by this Court. Consequently, this constitutional petition, being devoid of merit, is hereby dismissed. The impugned judgments passed by the learned Courts below are maintained.

16. All pending applications, if any, stand disposed of.

JUDGE

Ayaz Gul