

IN THE HIGH COURT OF SINDH AT KARACHI

C.P No.S-1261 of 2018

(Ms. Afzal Begum & others v. Mst. Farah Deebe Abbasi & others)

DATE	ORDER WITH SIGNATURE OF JUDGE.
------	--------------------------------

- 1. For orders on office objections as at ‘A’.
- 2. For hearing of main case.

Mr.Munawar-uz-Zaman Juna, Advocate for the Petitioners.

Mr. Muniruddin, Advocate for Respondent No.1.

.....

Date of hearing : 22.12.2025

Date of Short Order : 22.12.2025

J U D G M E N T

**Abdul Hamid Bhurgri, J.-** Through the instant constitutional petition, the petitioners have challenged the concurrent findings recorded by the two Courts below. The learned IV-Rent Controller, Karachi East, vide judgment dated 08.07.2017, allowed Rent Case No.311 of 2015 filed by respondent No.1 (landlady). The said judgment was maintained by the learned IV-Additional District Judge, Karachi East, vide judgment dated 19.12.2017 passed in F.R.A. No.191 of 2017, whereby the appeal was dismissed. It is pertinent to note that during the pendency of the proceedings, the original tenant of the demised premises, namely, Shaikh Moinuddin, expired on 22.12.2017, as evidenced by the death certificate placed on record as Annexure “A/19” at page 167 of the file. Consequently, the instant petition has been filed by his legal heirs.

2. The facts, as emerging from the record, are that Mst. Malika Begum, widow of Muhammad Ismail and mother of respondent No.1, had let out Shops Nos.1 and 3, constructed on Commercial Plot No.317-C, measuring 105 square yards, situated in Commercial Area, Block-2, PECHS, Karachi, to the tenant Shaikh Moinuddin. According to respondent No.1, since the year 2000, the tenant failed to pay the monthly rent to her mother, Mst. Malika Begum. It was asserted that due to old age and ailing health, her mother was unable to personally collect the rent. Consequently, the tenant started depositing the rent in M.R.C.

No.254 of 2000 in the name of Mst. Malika Begum at the rate of Rs.340/- per month. On 09.12.2008, Mst. Malika Begum expired. Thereafter, the tenant failed to tender the rent to respondent No.1, despite her being the real daughter and legal heir of the deceased landlady. Repeated requests were allegedly made to the tenant, followed by issuance of a legal notice calling upon him to pay the arrears of rent, but to no avail. Respondent No.1 further asserted that she had filed S.M.A. No.106 of 2011 for grant of Letters of Administration in respect of the properties left by the deceased Mst. Malika Begum. The said application was allowed, and Letters of Administration were issued on 28.02.2013 in favour of the legal heirs, namely, Mst. Farah Deebea Abbasi and Mst. Lubna, the only daughters of the deceased. Pursuant thereto, the property was transferred in favour of the said legal heirs vide Memorandum of Transfer Order No.PECHS/680/Coml/1213 dated 07.06.2013, issued by the Pakistan Employees Cooperative Housing Society Limited, Karachi. After the said mutation, a notice under Section 18 of the Sindh Rented Premises Ordinance, 1979, dated 13.06.2013, was served upon the tenant, calling upon him to tender the arrears as well as the monthly rent to respondent No.1. However, the tenant failed to comply. It was further asserted that respondent No.1 subsequently came to know that the tenant was depositing the rent in the Court of the learned V-Rent Controller, Karachi East, in M.R.C. No.254 of 2000, Ledger No.1473 of 1992, in the name of the deceased landlady. Respondent No.1 further pleaded that she had requested the tenant to vacate the demised premises, as her husband required the same for his personal bona fide use. It was stated that her husband, being a retired employee of K-Electric, intended to start his own business for earning livelihood for his family. However, the tenant allegedly avoided handing over possession and started harassing and threatening her. On these

grounds, respondent No.1 filed the rent application, which was allowed, and the appeal filed thereagainst was dismissed.

3. The tenant contested the rent application by filing a written statement, primarily on the grounds that Mst. Malika Begum had died issueless and, therefore, he had started depositing the rent in the Court of the learned V-Rent Controller, Karachi East. He asserted that he had deposited the rent up to June 2016 at the rate of Rs.340/- per month and had not committed any default. He further contended that respondent No.1 was a stranger to him, as Mst. Malika Begum had died issueless and that her death had taken place at Edhi Home in 2008. He alleged that the Letters of Administration obtained by respondent No.1 were secured through fraud, misrepresentation, and concealment of material facts. It was also alleged that false documents were prepared in collusion with government officials.

4. Learned counsel for the petitioners contended that the impugned judgments were illegal, arbitrary, and based on misreading and non-reading of evidence. It was argued that the tenant had never committed any default, as the rent was continuously deposited before the learned V-Rent Controller in M.R.C. No.254 of 2000, which constituted a lawful mode of payment. It was further argued that respondent No.1 had failed to establish her lawful status as landlady and that the Letters of Administration were obtained through fraud. It was also submitted that the Rent Controller had no jurisdiction to rely upon a disputed Letters of Administration. The plea of personal bona fide need was also challenged as vague and unsubstantiated.

5. Conversely, learned counsel for respondent No.1 submitted that she was the legal heir of the deceased landlady and that the Letters of Administration were granted by this Court. The tenant had no right to dispute the same in rent proceedings. It was further submitted that despite service of notice under Section 18 of the Ordinance, the tenant

failed to tender the rent to respondent No.1. It was also pointed out that possession of the demised premises had already been handed over to respondent No.1 through the Bailiff of the Executing Court on 21.12.2017, rendering the petition infructuous.

6. I have heard learned counsel for the parties at length and have perused the record with their able assistance.

7. The pivotal questions that arise for determination in the present petition are as follows:—

### **POINTS FOR DETERMINATION**

- i. Whether the tenant had committed default in payment of rent and whether respondent No.1 was competent to receive rent as landlady?
- ii. Whether respondent No.1 required the demised premises for her personal bona fide use?
- iii. Whether the allegations regarding the Letters of Administration had any legal relevance in rent proceedings?
- iv. Whether this Court, in exercise of its constitutional jurisdiction under Article 199 of the Constitution, can interfere with the concurrent findings of the two Courts below?
- v. What should the Judgment be?

8. My findings on the above points, with reasons thereof, are as under:—

### **FINDINGS**

Point No.1 ..... Affirmative  
 Point No.2 ..... Affirmative  
 Point No.3 ..... Negative  
 Point No.4 ..... Negative  
 Point No.5 ..... Petition is dismissed

### **REASONS**

#### **POINT NO.1**

9. It is an admitted position on record that after the demise of the original landlady, Mst. Malika Begum, a notice under Section 18 of the Sindh Rented Premises Ordinance, 1979, was duly served upon the

tenant, calling upon him to tender rent to respondent No.1. Once such notice was issued, it was incumbent upon the tenant to comply therewith and tender the rent to the person claiming to be the lawful successor of the deceased landlady. It is settled law that a tenant cannot unilaterally decide who the landlord is, nor can he avoid payment of rent on the basis of his own assumptions. Deposit of rent in Court, without lawful justification, does not absolve a tenant from default, particularly when a competent claimant has served notice under Section 18 of the Ordinance. Both the Courts below, after appreciating the evidence, have recorded a clear finding that the tenant failed to tender rent to respondent No.1 despite service of notice and that the continued deposit of rent in the name of a deceased person did not constitute valid compliance. This Court finds no perversity or illegality in such conclusion. Accordingly, Point No.1 is answered in the ***Affirmative***.

**POINT NO.2**

10. The Courts below have concurrently held that respondent No.1 required the demised premises for the personal bona fide use of her husband, who, being retired, intended to start his own business. The tenant failed to rebut this claim by leading any convincing evidence. This Court finds that the said findings are based on proper appreciation of the material available on record and do not suffer from any legal infirmity. Therefore, the point under discussion is answered in the ***Affirmative***.

**POINT NO.3**

11. The allegations regarding fraud in obtaining the Letters of Administration are misconceived and legally untenable. Admittedly, no proceedings are pending before any competent forum challenging the said Letters of Administration. In any event, such allegations cannot be examined in rent proceedings, which are summary in nature and confined to limited questions of tenancy, default, and personal requirement. The Rent Controller has no jurisdiction to adjudicate upon

questions of title or to invalidate documents issued by a competent Court. Moreover, the tenant, being a stranger to the estate of the deceased landlady, has no locus standi to challenge the Letters of Administration in any proceedings, as the same can only be questioned by a person having a caveatable interest in the estate. Therefore, such a plea was rightly ignored by the Courts below. This point is answered in the ***Negative***.

**POINT NO.4**

12. It is now well settled that the jurisdiction of this Court under Article 199 of the Constitution is supervisory in nature. This Court does not sit as a Court of appeal over the findings of subordinate Courts. It cannot reappraise evidence, nor can it substitute its own conclusions for those recorded by the Courts below, unless the findings are shown to be perverse, arbitrary, or based on misreading or non-reading of evidence. In the present case, learned counsel for the petitioners has failed to demonstrate any such illegality, jurisdictional defect, or perversity. The concurrent findings of the Rent Controller and the Appellate Court are supported by cogent reasons and are based on proper appreciation of the record. Therefore, no interference is warranted in constitutional jurisdiction. Thus, the point under discussion is answered in the ***Negative***.

**POINT NO.5**

13. In view of the above this petition is devoid of merits and does not warrant any interference in constitutional jurisdiction. Accordingly, the instant constitutional petition was dismissed along with all pending applications vide short order dated 22.12.2025 and above are the reasons for the same. There shall be no order as to costs.

JUDGE