

IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No.S-1137/2023

Petitioner	Jamil Ahmad, through Mr.Syed Sibte Hasan, Advocate.
Respondent	Muhammad Shoaib through Mr. Murtaza Hussain and Salma Bano Advocates
Date of hearing	08.04.2026
Date of announcement	16.04.2026

JUDGMENT

MUHAMMAD HASAN (AKBER) J.: The Instant petition has been preferred against the order dated 30.09.2023 passed in **First Rent Appeal 175 of 2023** by learned 10th Additional District Judge Karachi South, whereby two applications filed by the petitioner were rejected, vide Order dated 30.09.2023, one for restoration of possession, in Rent Execution Application No.18 of 2021 and the other one for verification of the letter of attornment.

2. The issue involved in this petition is the claim for restoration of possession by the petitioner/tenant, after satisfaction of the writ of possession by the learned executing Court, whereby possession of the demised premises was handed over to the landlord vide Order dated 28.04.2022.

3. The record reflects that **Rent Case No.1031/2019** was initiated by the Respondent/landlord on the grounds of default and bona fide personal need with respect to “shop No.6 at the Ground floor of the building known as New Zuleikha Mansion, Babar Street, Sheet No.RB-12, survey No.17, M.A.Jinnah Road, Rambagh quarters, Karachi” [**demised premises**]. The rent application was allowed, and ejectment was ordered vide Order dated 10.09.2021, against which **First Rent Appeal No.192/2021** was preferred by the petitioner, which upheld the ejectment Order vide **Judgment dated 13.01.2022**. Against this Judgment, no petition or further proceedings were initiated and the same had therefore attained **FINALITY**.

Consequently, **Execution Application 18 of 2021** was initiated by the landlord, which was allowed on 13.04.2022, whereafter, based upon recording of statement of the Bailiff as recorded, the **Order dated 28.04.2022** was passed whereby possession of the demised premises was handed over to the landlord by the learned Executing Court. In this regard, an **earlier Constitution Petition 102/2022** was also preferred by the petitioner, wherein an application for interim relief was disposed of as infructuous. Thereafter, the petitioner moved an application for contempt against the landlord, which was dismissed vide Order dated 03.05.2023 by this Court along with other applications. The petitioner also moved an application under **section 144 CPC** for restoration of possession before the learned executing Court, which was disallowed vide **Order dated 16.05.2023**. The petitioner moved another application for verification of the letter of attornment before the executing Court, which was also rejected vide Order **dated 31.05.2023**. The petitioner then assailed both these orders in **First Rent Appeal No.175 of 2023**, which was also dismissed vide **Order dated 30.09.2023**. Against these two orders, this petition was filed, which was dismissed for non-prosecution on **22.01.2025**, but the same was subsequently restored.

3. In the above backdrop, I have perused both the orders passed by the learned executing Court and the appellate court on both the applications and also perused the earlier orders and proceedings. It appears that ever since the ejection order, upheld by the learned appellate Court, and having attained finality way back on 13.01.2022, the petitioner is consistently filing multiple proceedings against the landlord, despite the passing of four years from the date of taking over possession of the premises. The main proceedings have already attained Finality about four years ago, yet in execution proceedings, the petitioner intends to reopen the merits of the case, seeking verification of the letter of attornment, which was already part of the main proceedings. The conduct of the petitioner reflects that these frivolous proceedings are being initiated to drag, linger, harass and pressure the landlord. Such frivolous proceedings have also caused waste of the precious time of the learned executing Court, the appellate Court and this Court. Since possession of the demised premises was already handed over to the landlord three years back, no valid ground exists for the initiation of this second round of litigation. Neither the petitioner's learned counsel can point out any illegality in the same, nor any illegality appears to have been committed by both the Courts below, which have discussed every aspect of the case in detail.

4. In the cases of **Moinuddin Paracha** and **Master Iqbal**¹ it is held that the scope of Constitutional Jurisdiction in rent matters is confined to ascertain whether the learned Courts below have flouted the statute or failed to follow the law relating thereto. Moreover, In **Hafiz Shafatullah's case**² it was held that by conferring only one right of appeal under section 21 of the Sindh Rented Premises Ordinance, 1979 the legislature in its wisdom has shortened the span of litigation in rent cases, and in such circumstances, interference by the Court under Article 199 of the Constitution, merely on the ground that another view of the matter was also possible, would not serve any other purpose but would add to the misery of prolonged litigation for the parties, which defeats the spirit and object of the law.

5. In view of the above discussion, no merit could be found in this petition for exercising jurisdiction under Article 199 of the Constitution in this second round of litigation; hence, the instant petition is dismissed, along with all pending applications. Although this appears to be a fit case for the imposition of heavy costs against the petitioner for initiating this frivolous second round of litigation in these rent proceedings, despite finality of the ejectment Order and handing over possession three years ago, however purely out of forbearance and indulgence, costs are not being imposed, but the petitioner is only being put on caution to be careful in future.

The petition, therefore, stands dismissed in the above terms.

JUDGE

1. *'Master Iqbal and others v. Anjuman Jama Masjid through General Secretary'* (PLD 2025 Sindh 323), *'Moinuddin Paracha v. Messrs Novatris Pharma Pakistan Ltd. and 2 others'* (2015 YLR 947)
2. *'Hafiz Shafatullah v. Mst. Shamim Jahan and another'* (PLD 2004 Karachi 502)