

*ORDER SHEET*  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD.**

R.A.No.93 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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11.07.2025.

- 1. For Order on CMA No. 1439 of 2025
- 2. For Order on Office Objections
- 3. For Order on CMA No. 1440 of 2025
- 4. For Order on CMA No. 1443 of 2025
- 5. For Hearing of Main Case

FOR THE APPLICANT: Mr. Tahir Nisar Rajupt, Advocate

FOR THE RESPONDENT: Nemo

**ORDER**

**MOHAMMAD ABDUR RAHMAN, J** This Revision Application has been maintained by the Applicant under Section 115 of the Code of Civil Procedure, 1908 C.P.C against an order dated 31 May 2025 passed by the District and Sessions Judge Hyderabad in Civil Transfer Application No.66 of 2025 and whereby the Applicant’s request to transfer Execution Application No. 30 of 2024, emanating from Rent Application No.176 of 2022, from the Court of the VIII<sup>th</sup> Rent Controller Hyderabad was declined

2. Rent Case No.176 of 2022 was instituted by the Respondent as against the Applicant before the VIII<sup>th</sup> Rent Controller Hyderabad seeking his eviction on the grounds of personal bona fide use and default. After notice had been affected and on account of the non appearance of the Applicant, he was declared ex parte on 17 March 2023 by the VIII<sup>th</sup> Rent Controller Hyderabad and thereafter an order dated 5 September 2023 was passed by the VIII<sup>th</sup> Rent Controller Hyderabad allowing Rent Case No. 176 of 2022. After the order was passed evicting the Applicant, he preferred F.R.A. No.43 of 2023 before the Model Civil Court IInd Additional District Judge Hyderabad against the order dated 5 September 2023 and which was on 29 January 2024 allowed with directions to permit the Applicant to file his Written Statement and adduce evidence and for Rent Case No.176 of 2022 to be decided on merits.

3. While the Applicant chose to file his Written Statement and adduce evidence, contemporaneously a Petition was preferred before this Court bearing C.P. No. S-69 of 2024 against the order dated on 29 January 2024 passed in FRA No.43 of 2023 by the Model Civil Court IInd Additional District Judge Hyderabad and in which the order dated 29 January 2024 passed by the Model Civil Court IInd Additional District Judge Hyderabad in F.R.A. No.43 of 2023 was first suspended and then set aside by this Court on 9 April 2024. The applicant has before the Supreme Court of Pakistan preferred CPLA-522-K of 2024 as against the order dated 9 April 2024 passed by the Learned Single Judge of this Court in C.P. No. S-69 of 2024. In the interim Execution Application No.30 of 2024 seeking execution of the eviction order passed in Rent Application No.176 of 2022 has been preferred and on which arguments, on account of the court of the VIIIth Rent Controller Hyderabad being vacant, are purportedly ongoing before a Link Judge.

4. During the course of the arguments in Execution Application No.30 of 2024 before the VIIIth Rent Controller Hyderabad, it is contended that comments were passed by that Court suggesting that the Applicant enter into a compromise with the Respondent. This prompted the Applicant to file a statement in Execution Application No.830 of 2024 that he did not have confidence in the VIIIth Rent Controller Hyderabad and on this ground has maintained Transfer Application No.66 of 2025 before the Learned District Judge Hyderabad.

5. The Learned District Judge, Hyderabad vide an order dated 31 May 2025 dismissed Transfer Application No.66 of 2025 maintaining that the actions on the part of the Applicant were transparently an attempt to delay proceedings and which was not a ground to maintain a transfer application.

6. Mr. Tahir Nisar Rajput entered appearance on of the applicant and after recounting the facts has stated that:

- (i) the address of the Application was incorrect on the memom of Rent Case No. 176 of 2022;
- (ii) the Execution Application that has been maintained was beyond the decree that was passed in Rent Case No.176 of 2022; and
- (iii) the VIIIth Rent Controller Hyderabad having continued to proceed with the hearing of Execution Application No.830 of

2024, after a Statement was filed by the Applicant that he did not have confidence in VIIIth Rent Controller Hyderabad, established bias.

7. I have heard Mr. Tahir Nisar Rajput and have perused the record.

8. The objection, raised by Mr. Rajput, regarding the incorrect address being mentioned in the title of Rent Case No. 176 of 2022 and which led to that *lis* proceeding ex-parte has been considered by a Learned Single Judge of this Court in C.P. No. S-69 of 2024 and is now sub-judice before the Supreme Court of Pakistan in CPLA-522-K of 2024. The issue moves to the merit of the appeal and clearly cannot be a ground to be maintained in a Transfer Application.

9. The second objection raised, that the Execution Application No.30 of 2024 was beyond the decree passed by the VIIIth Rent Controller Hyderabad in Rent Case No. 176 of 2022, would again move to the merits of the order that would be passed on Execution Application No.30 of 2024 and which would thereafter be appealed before the a court of competent jurisdiction . No such order having as of yet been passed, I am of the opinion that this argument is premature and therefore, at this stage is rejected. Needless to say such an objection could be maintained by the Applicant in an appeal as against any order that is passed on the Execution Application.

10. Finally, it seems to have now become a regular practice before this Court that whenever a *lis* is being proceeded with and when a litigant perceives that a Court is inclined to pass an order as against them to file a statement that they have “lost confidence” in the Court and to expressly or tacitly request that the Court to recuse themselves from hearing the *lis* and if such a recusal is not forthcoming to maintain an application to transfer the *lis* to a different court. Such a course of action is to be deprecated. The right of a Judge to recuse themselves from a case is a right of the Judge not of a litigant and which cannot be demanded by a litigant or for that matter an advocate. The ground maintained for such recusal i.e., that a request was made by the Court to a litigant to consider a compromise, is done as an indulgence exercised by a Court with the intent of trying to resolve a *lis* amicably to bring some finality to proceedings and to prevent further litigation. In the facts as narrated, I cannot find this to be a valid basis for maintaining a transfer application and which contention is therefore rejected. The Application must therefore be dismissed.

11. For the foregoing reasons, I am of the opinion that there is no material infirmity or illegality in the order dated 31 May 2025 passed by the Learned District and Sessions Judge Hyderabad in Civil Transfer Application No.66 of 2025. This Civil Revision Application therefore being misconceived is dismissed with costs of Rs.25,000 to be paid by the Applicant to the Clinic of this Court by 25 July 2025. In the event such an amount is not paid, the Additional Registrar shall intimate this Court of the non-compliance of this Order.

JUDGE

Ahmed/Pa