

JUDGMENT SHEET  
**IN THE HIGH COURT OF SINDH**  
**CIRCUIT COURT MIRPURKHAS**

C.P. No.S-61 of 2025

Petitioner: Narsingh Das s/o Jhaman Das.  
Through Mr. Parshotam K.  
Khatri, Advocate.

Respondent: Khetaram s/o Prem Chand.  
Through Mr. Bhoro Bheel,  
Advocate.

Date of hearing: 10.09.2025.

Date of Decision: 10.09.2025.

**J U D G M E N T**

**Amjad Ali Sahito, J:-** Through this constitutional petition, petitioner Narsingh has challenged the impugned Judgment dated 18.02.2025 passed by the learned District Judge, Umerkot in Rent Appeal No.05 of 2024 [Re-Narsingh v. Khetaram] whereby dismissed the appeal, which was filed against the impugned Judgment dated 30.09.2024 passed by Rent Controller/Senior Civil Judge-I, Umerkot in Rent Application No.03 of 2023 [Re-Khetaram v. Narsingh], wherein Rent Application was allowed in favor of respondent. Hence, the petitioner has approached this Court for setting aside the impugned Judgments passed by the Courts below.

2. The brief facts of the instant rent application are that the applicant is legal and lawful purchaser of property viz. plot bearing Form No.1/1 admeasuring 6197 sq. ft. situated in Prem Nagar on Survey No.551, DehLashari, Taluka and district Umerkot and sold out 2600 sq. ft. and remained owner of 3597 sq. ft., which area is shown as “rented premises” in the memo of rent application. The applicant has stated in the rent application that there are 04 shops constructed on the plot, out of which 02 are owned by applicant while 02 were given to real uncle of applicant namely Narsingh Das S/o Premchand in good faith. The applicant and his uncle Narsingh S/o Premchand let out all the 04 shops to the opponent in the

shape of verbal agreement having good faith and believe on each other being residents of same locality and belonging to same caste. The monthly rent was fixed at the rate of Rs.25000/- per shop and Rs.50,000/- as to rent of backside area of shop known as godown (good-down). The opponent kept on paying the monthly rent of Rs.1,50,000/- to the applicant and his uncle till October, 2021 and thereafter stopped paying the monthly rent. Under the circumstances, one legal notice dated 18.05.2022 was served upon the opponent jointly on behalf of the applicant and his uncle. The opponent failed to reply such legal notice and in the meantime, the uncle of applicant without getting the applicant into knowledge filed one rent application No.04/2022 before learned 2nd Senior Civil Judge, Umerkot individually against the present opponent and also during the proceedings entered into compromise with the opponent and as per terms and conditions of illegal compromise, it was mutually agreed and decided by the uncle of applicant Narsingh Das S/o Premchand and opponent that the cost of construction in the sum of Rs.55,00,000/- in lump sum will be paid by the landlord to the opponent. As and when the applicant came to know the proceedings of Rent Application No.04/2022 and subsequent outcome thereof in shape of illegal compromise made therein, the applicant filed an application U/S 12(2) R/W Section 151 CPC which was dismissed vide order dated 06.05.2023 with an observation that the applicant of Rent Application No.04/2022 / uncle of present applicant namely Narsingh Das S/o Premchand raised no objection on application filed by the present applicant, which shows mala fide on their part and there is no ingredient of fraud or misrepresentation in the compromise order and that the application U/S 12(2) CPC was not maintainable in rent matters, hence, this application.

The applicant prayed for relief as under: -

- a. That, this Honourable Court may kindly be pleased to direct the opponent to vacate and handover vacant peaceful physical possession of the rented premises to the applicant since he has committed default in

payment of rent since the month of November, 2021 and so also the applicant is in need of the same for his personal bonafide.

b. That this Honourable Court may further kindly be pleased to direct the opponent to pay the arrears of monthly rent from the month of November, 2021 till April 2023 with further directions to deposit monthly rent before this Honourable Court till final disposal.

c. The costs of the proceedings be saddled upon the opponent.

d. Any other relief(s) which this Honourable Court deems fit, just and proper in favour of the applicant under the circumstances.

3. On notice, the opponent Narsingh Das filed his written statement/objections wherein he has denied most of the paragraphs of the rent application including the sole relationship of the applicant as Landlord and further submitted that the applicant and his uncle namely Narsingh Das separately rented out the plot to the opponent on rent at the rate of Rs.5,000/- each and it was orally decided that the opponent shall construct shop/godown (good-down) in the said plot and shall spent amount on construction, which shall be treated as advance money with the applicant and his uncle Narsingh; the entire property was constructed by opponent and spent an amount of Rs.71,50,336/- on construction; it was also decided that the applicant and his uncle Narsingh shall return the said amount to the opponent at the time of vacation of the premises; the applicant and his uncle are bound to return said amount to the opponent. The opponent vehemently denied that the rent was fixed as Rs.25,000/- per shop or Rs.50,000/- as backyard. The opponent stated in his written statement/objections that the applicant and his uncle were receiving rent of Rs.5000/- each from the opponent, but stopped receiving rent from August 2022 and uncle of applicant filed Rent Application No.04/2022 in the Court of learned 2nd Senior Civil Judge/Rent Controller, Umerkot and after filing the said rent application, they did not receive the rent. The uncle of

applicant in presence of present applicant entered into compromise whereby he agreed to pay an amount of Rs.55,00,000/- to the opponent till the end of February, 2022 when the opponent had to vacate the premises, but he/they failed, therefore, the present opponent filed execution application No.01/2023 which is also allowed vide order dated 16.05.2023. Finally the opponent prayed for dismissal of instant rent application with special costs.

4. The trial Court framed following issues:

1. Whether Rent Application is not maintainable under the law?

2. Whether the relationship of landlord and tenant exists between the applicant and opponent in respect of demised premises shops situated in Survey No.551 Deh Lashari Umerkot town and thus, he is liable to pay rent to the applicant at the rate of Rs.150,000/- per month since November, 2021 till the possession is delivered by the opponent to the applicant?

3. Whether the opponent defaulted in payment of rent from November, 2021?

4. What should the judgment be?

5. To support his case, the applicant (respondent) testified on his own behalf, with his statement recorded at Ex. 16. He introduced several documents into evidence, including: a copy of the legal notice along with the receipt (Ex. 16/A), a certified true copy (CTC) of the memo from Rent Application No. 04/2022 (Ex. 16/B), CTC of the application under Section 16(1) of the Sindh Rent Premises Ordinance, 1979 (Ex. 16/C), CTC of the application under Section 13 of the Sindh Rent Premises Ordinance, 1979 (Ex. 16/D), CTC of the order dated 20.02.2023 (Ex. 16/E), CTC of Civil Miscellaneous Application No. 02/2023 (Ex. 16/F), CTC of the order dated 06.05.2023 (Ex. 16/G), CTC of Deh Form-II for Survey No. 551, comprising 07 pages (Ex. 16/H to Ex. 16/N), and CTC of the Sale Deed (Ex. 16/O). He then examined his witness Parshotam, whose testimony was

recorded at Ex. 19. After presenting his evidence, the applicant's (respondent's) counsel formally closed the applicant's (respondent's) case with a statement recorded at Ex. 20.

6. In response, the opponent (appellant) produced his affidavit in evidence at Ex. 26/A, along with original receipts for the purchase of construction material (Ex. 26/B1 to B33). The opponent's (appellant's) counsel then closed his side of the evidence with a statement recorded at Ex. 27.

7. The learned trial Court/Rent Controller after hearing the advocate for parties passed the impugned judgment, which has been assailed by learned District Judge, Umerkot and instant Constitutional appeal, the appellant, seeking the reversal of the learned Rent Controller's decision.

8. The learned counsel for the petitioner has argued that the impugned judgments passed by both the learned Appellate Court and the Rent Controller, asserting that they are illegal, unjust, and contrary to settled legal principles. It is argued that both forums failed to consider crucial facts and evidence. He further argued that the petitioner never refused to pay rent but was acting under a prior compromise with the landlord's uncle. It is further submitted that the ownership of the property is disputed, with parts already transferred and no official partition having occurred and the landlord failed to specify, which parts of the property belong to him, or to show when the premises were rented, or from when rent was allegedly unpaid. He further argued that the disputed ownership and civil issues, requiring proper framing of issues and collection of evidence, steps which the Rent Controller allegedly ignored. He further argued that the Rent Controller did not frame essential points for determination, particularly regarding the tenant's claim of having constructed the premises himself on a plot given by the landlord. He further asserted that the judgments passed by the Rent Controller and Appellate Court are void ab initio, and not sustainable in law, and deserved to be set aside.

9. The learned counsel for the respondent has supported the observations given in the impugned judgments and stated that

the Appellate Court and Rent Controller have rightly passed the judgments. However, separate Rent application was filed now Execution application No. 4/2022 is also pending before the trial Court. Lastly he prayed that instant petition has no merits and same may be dismissed.

10. At the very outset, a pointed query was put to the learned counsel for the petitioner as to whether any statutory remedy remains available to the petitioner after the filing of Rent Appeal against the Judgments passed by the courts below, and further, whether the extraordinary writ jurisdiction of this Court may be invoked as a substitute for an appeal. However, the learned counsel for the petitioner could not furnish a satisfactory response.

11. With respect to the submissions advanced by the learned counsel regarding the impugned Judgments, I am not persuaded by his contentions. It is settled law that this Court, while exercising constitutional jurisdiction, may only interfere where the impugned judgments have been passed without lawful authority or jurisdiction. In the present case, the Judgments in question were rendered by the courts below within their lawful authority and jurisdiction, hence they are immune from challenge under constitutional jurisdiction. Furthermore, the petitioner has already availed the statutory remedy of appeal, which stands concluded with finality, and therefore, the extraordinary writ jurisdiction cannot be invoked as a substitute remedy. To allow such a course would defeat the intent and purpose of the Legislature.

12. As regards the appreciation of evidence, it is trite law that the evaluation of evidence falls within the exclusive domain of the trial court, and thereafter the appellate court. Unless it is demonstrated that the findings are tainted with mala fides, arbitrariness, perversity, or are rendered in excess of jurisdiction, writ jurisdiction cannot be invoked merely to reappraise the evidence. No such defect has been pointed out in the present case to warrant interference by this Court.

13. In this regard, guidance may be drawn from the authoritative pronouncements of the ***Hon'ble Supreme Court of Pakistan in Arif Fareed v. Bibi Sara and others [2023 SCMR 413] and M. Hamad Hassan v. Mst. Isma Bukhari and others [2023 SCMR 1434]***.

14. With regard to the plea advanced by the learned counsel for the petitioner, to the effect that the trial Court also passed an order for payment of rent, it is sufficient to observe that the learned Senior Civil Judge/Rent Controller rendered judgment only to the extent of directing the vacation of the demised premises and handing over of its vacant physical possession to the applicant. The learned trial Court did not render any judgment pertaining to payment of rent. In this regard, a separate proceeding was initiated by one Narsingh Das through Rent Application No.04 of 2022, which was allowed, and Execution Application No.04 of 2022 was also allowed by the executing Court vide order dated 25.08.2025. The petitioner, if so advised, may seek redressal of his grievance before the competent forum.

15. For what has been discussed above, instant petition is **dismissed** along with listed application(s).

16. These are reasons of short order dated: 10.09.2025.

JUDGE

\*Adnan Ashraf Nizamani\*