

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Date	Order with signature of the Judge
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Present:
Mr. Justice Muhammad Iqbal Kalhoro.
Mr. Justice Muhammad Abdul Rehman.

C.P.No.D-4612 of 2025

Shakeel-ud-Din & others	Petitioners
	Vs.	
Province of Sindh & others	Respondents.

24.09.2025.

Mr. Muhammad Ali Lakhani, advocate for petitioners.
Mr. Muhammad Hisham Mahar, AAG
M/s Ayaz Ahmed Soomro, Administrator, Auqaf Karachi/respondent No.3
and Abdul Rasheed, manager East Circle Karachi.

O R D E R
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MUHAMMAD IQBAL KALHORO J: Petitioners claim that their father was inducted as a tenant into subject property viz. Bungalow No.24/1 situated in Sherwani Colony on Jigar Muradabad Road, near Guru Mandar New Town, Karachi by the Auqaf Department. He passed away on 28.09.2020, and hence petitioners and respondent No.4 assumed status of statutory tenants. Nonetheless, respondent No.4, their brother, remained in exclusive possession of the property. The petitioners recently came to know that respondent No.4 had entered into a fresh tenancy agreement dated 19.03.2024 with respondents No.1 & 2, Auqaf Department for a period of one year.

2. Their case is that such tenancy is unauthorized and is to the detriment of their rights being legal heirs of original tenant Mushtaquddin. They were not aware of change of tenancy and were kept in dark. But, in any case, after expiry of tenancy for one year, notices were given to respondent No.4 by the Auqaf Department to vacate the property but he did not share such information with them, instead he filed a petition before this court and agreed to surrender possession of the subject property without their consent and knowledge. Hence this petition on the ground that they are the legal heirs of original tenant Mushtaquddin and are in possession of the property. The surrender of property agreed by respondent No.4 is not binding upon them. They are statutory tenants and they have made a representation /requisition before Auqaf Department for retaining the property as tenants and are entitled to due process. They have prayed for directions against their dispossession from the subject property by the Auqaf Department.

3. Learned counsel for petitioners has reiterated the aforesaid facts in his arguments.

4. On the other hand, respondent No.3 has filed a written statement alongwith copy of order passed in C.P.No.D-2740/2025.

5. We have heard the parties. It may be mentioned that C.P.No.D-2740/2025 was filed by respondent No.4, a brother of the petitioners namely Raheeluddin, who himself is a professional lawyer. He had filed the said petition against a dismissal order dated 30.05.2025 passed by the court of IX-Additional District Judge, Karachi East, before whom, he had challenged an order passed by Administrator Auqaf dated 12.03.2025 canceling lease in his favour in respect of the said property U/s 13(1) of the Sindh Waqf Properties Act, 2020 (Act,2020).

6. The brief facts show that initially father of the petitioners and respondent No.4 had taken over possession of rented premises from one Mst. Shamim Raza Zaidi, who was the original tenant, and started paying monthly rent. After his death, the tenancy was changed in the name of respondent No.4 Raheeluddin, who paid the relevant dues amounting to Rs.12,00,000/- for change of tenancy rights in his favour and hence with him a fresh tenancy agreement was executed for one year. He after some time started paying the monthly rent in the court of the Rent Controller after allegedly the Auqaf Department refused to receive the rent from him. Then, he was issued notices to vacate the premises and finally, the order dated 12.03.2025 was passed against him and he was directed to vacate the premises. Instead he challenged the same before learned Additional District Judge, Karachi East, who passed the impugned order and allowed him one month's time to vacate the premises. This order, he challenged in C.P.No.D-2740/2025. After the notice, when the said petition was taken up on 27.06.2025 for hearing, the following order was passed with consent:-

Administrator Auqaf has appeared in person submits that he received notice of this petition yesterday and seeks time to file comments. However, learned counsel for petitioner submits that if three months' time is given to petitioner to vacate the subject premises viz. Unit No.1, situated at Plot No.24/1, Sehwan Colony, Jugar Muradabad Road, Gurrumandir, Karachi, he would be satisfied. Administrator Auqaf has agreed to this proposal and this petition is, therefore, disposed of in the terms that the petitioner may retain the subject premises for three months subject to making all necessary payments viz. rent, utility bills etc. w.e.f. today. On completion of three months or before, he shall vacate the subject premises without any notice. If the premises is not vacated on completion of three months, Auqaf Department would be competent to seek police help to get the premises vacated without any further notice.

The petition is accordingly disposed of in above terms along with pending application.

7. It appears that three months' time is about to pass in a couple of days but respondent No.4 did not seem to be willing to vacate the premises as agreed by him. On the contrary, his brothers and sisters, have filed this petition claiming statutory rights in their favour in the premises being legal heirs of purported last tenant namely Mushtaquddin. When the order dated 12.03.2025 was passed by the Auqaf Department, respondent No.4 was the recorded tenant in the subject property and no

one else. The tenancy rights were changed on payment of Rs.12,00,000/-, the requisite fee for such change. Before the order dated 12.03.2025 was passed, relevant notices were issued on 25.10.2024, 25.11.2024 and 26.12.2024 as required u/s 11(1) of Act, 2020, at the given address. None of the petitioners, who claim to be in possession of the premises situated at the address, came forward to reply the same or agitate that they were the statutory tenants and in possession of the property. They never challenged the order dated 12.03.2025 passed by Auqaf Department in the alleged capacity as statutory tenants of the property before any forum or file any appeal against the order in terms of section 12 of the Act, 2020. Even, they did not join proceedings in C.P.No.D-2740/2025 filed by their brother against impugned order dated 30.05.2025 passed by learned Additional District judge Karachi East dismissing the application of their brother, respondent No.4, and giving him one month's time to vacate the same premises.

8. The petitioners have come forward to file the petition when three months' time given to respondent No.4 to vacate the premises is about to expire in two days. Their claim as statutory tenants in the subject property is based on the fact that they are sons and daughters of late Mushtaquddin, who expired on 28.09.2020. But the fact to be noted is that subsequently after his demise, only respondent No.4 applied for change of tenancy in his favour, which was granted to him subject to payment of requisite fee. It is an admitted position that only he remained in exclusive possession of the property. Factually, and legally when order dated 12.03.2025 by the Auqaf department was passed, respondent No.4 was the recorded tenant in respect of the property, not the father of petitioners, and hence claim of the petitioners to be statutory tenant in respect of the property is based on a fallacy. Further, the petitioners have claimed that respondent No.4 kept them in abeyance regarding any issue in respect of the rented premises but record does not show that in the last five years after demise of their father, they have taken up the matter in respect of the property with respondent No.4 or filed any application for change of tenancy rights in their favour. They never objected to his possession of the premises, nor ever came forward and paid the rent of the premises to perpetuate their so-called status. This petition, therefore, filed at the time when the time given to respondent No.4 to vacate the premises is about to expire, appears to be nothing but a futile attempt (at the behest of respondent No.4) to retain the property in illegal possession. The petitioners are neither statutory tenants in the property nor their claim as statutory tenant after change of tenancy rights in favour of respondent No.4 is valid, correct and legal.

9. In our view, this petition has been filed only for the purpose of defeating consent order dated 27.06.2025 reproduced above by abusing process of the law. The petition appears to be motivated and is nothing but a waste of precious time of the court and to hoodwink it into re-entering in the same matter after closing it with

consent of the relevant parties. The petitioners have no right to file the petition being strangers qua the property. We, therefore, dismiss this petition and impose a cost of Rs.100,000/- upon the petitioners to be paid to the High Court Judges Library within one month. If the cost is not paid within one month, the petition shall be posted in the court for enforcing compliance of the order.

The petition is dismissed alongwith pending application.

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