

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT
MIRPURKHAS**

C.P. No.S-135 of 2025

Petitioner: Mst. Farzana Anwar Khan,
through Mr. Tehseen Ahmad H. Qureshi Advocate.

Respondent: The Chairman Union Committed No.3, Mirpurkhas
through Mr. Mehfooz Ali Leghari Advocate.

Mr. Muhammad Shareef Solangi, Assistant A.G
Sindh.

Date of Hearing: 11.02.2026

Date of Decision: 11.02.2026.

J U D G M E N T

MUHAMMAD HASAN (AKBER), J.- The issue involved in this petition is the rejection of Petitioner's application under section 16(1) Sindh Rented Premises Ordinance 1979 [SRPO] by the learned Rent Controller, with directions to proceed with the trial to determine the landlord-tenant relationship between the parties. Such Order dated 18.01.2025 [**impugned Order**] was passed in Rent Application No.10 of 2024, '*Mst. Farzana Anwar Khan vs. The chairman Union Committee No.3 Mirpurkhas City*' by the learned 3rd Rent Controller Mirpurkhas, which was concurrently upheld by the learned 2nd Additional District Judge Mirpurkhas, vide Judgment dated 23-05-2025 [**impugned Judgment**], which have been assailed in this petition.

2. Mr. Tehseen Ahmad H. Qureshi, the learned counsel for the petitioner, argued that the petitioner claims ownership of the property bearing Plot No.A-3, Satellite Town, Scheme No.III, Commercial area ad-measuring 133.33 square yards, situated in Mirpur city [**the demise premises**]. The ownership is being claimed on the strength of a registered sale deed dated 22.05.2023 in favour of the Petitioner. He further pleaded that the landlord-tenant relationship is being claimed by the petitioner with the Respondent, which is the Union Committee No.3 Mirpurkhas, upon an oral agreement in November 2023, with a promise by the Respondent to execute a proper rent agreement/ contract with the approval of the concerned Local Government Department, Government of Sindh. Ejectment of the

respondent was claimed on the ground of default in payment of the monthly rent from November 2023. Along with the Rent application, an interlocutory application under section 16 SRPO was filed by the petitioner seeking directions for the respondents to deposit arrears and future rent, etc. In support of his contentions, he relied upon the case laws viz: 2019 YLR 474 [Sindh (Sukkur Bench)], 2025 SCMR 690 [Supreme Court of Pakistan], 1990, SCMR 647, 2025 YLR 382 [Sindh (Hyderabad)], 2001 YLR 3014 [Karachi], 2024 YLR 824 (Lahore) and 2005 YLR 1106 [Karachi] and unreported judgment of Supreme Court dated 23.11.2023 passed in CPLA No.2885/2022.

3. Mr. Shareef Solangi AAG argued that the Respondent's case is that the existence of landlord-tenant relationship between the parties is being denied, and so is the petitioner's claim of an oral rent agreement. It was claimed that the respondent is regularly paying monthly rent to one Mohammed Irfan son of Sadruddin, who is the landlord of the premises. It was also averred that before this Rent Application, a criminal complaint under the Illegal Dispossession Act was also filed by the petitioner, alleging therein forcible dispossession of the petitioner by the respondent, which is *subjudice* before the learned 1st Additional Sessions Judge Mirpurkhas. It was also claimed that the husband of the petitioner Anwar Khan had also lodged FIR (Crime No.169/2023) against the owner of the property, Mr Muhammad Irfan son of Sadruddin, and in the said criminal case, Muhammed Irfan has been acquitted. The respondents stated that such material facts were concealed by the petitioner/applicant before the learned Rent Controller in the Rent Application. It was also prayed that the landlord-tenant relationship between the parties be determined first, and until then, a tentative rent Order may not be passed. The learned Rent Controller, after considering the above facts and circumstances, rejected the application under section 16(1) SRPO and directed the parties to proceed with the trial, vide the impugned Order, which was concurrently upheld vide the impugned Judgment.

4. I have heard learned Counsel for the parties and perused the record with their able assistance.

5. Firstly, an interim/ interlocutory order passed by a rent controller on an application under section 16(1) SRPO is not appealable. The words "**not being an interim order**" as used in section 21 SRPO further confirm such a position that the legislature did not intend to make an interim order as challengeable, and

therefore, a writ petition under Article 199 against such an order would also not be maintainable *per se*. Such principle has been held in '**Aslam Pervez V. Madarsa Anwarul Islam Ghousia Faridia (Regd.) Noor Masjid Ghotki through Mohtamim Qari and 3 others**' (2019 YLR 313), '**Iqbal Ahmed V. Muhammad Nasir and another**' (2016 MLD 624), '**Abdul Farooque And Another V. Maqsood Ahmed and another**' (2015 CLC 663), '**Director, Excise And Taxation V. Muhammad Amin Waqf**' (2006 CLC 1655), '**Syed Mazhar Imam Rizvi v. Mst. Yasmin Bano and 2 others**' (2009 MLD 935), '**Shamim Akhter v. State Life Insurance Corporation Ltd.**' (PLD 2005 Karachi 554) and '**Mst. Mahjabeen Begum V. R.M.Khan**' (1985 MLD 949).

6. However, where the Rent Controller has failed to exercise its jurisdiction under the SRPO, to determine the landlord-tenant relationship through a summary inquiry, as required under section 16 thereof, this Court has treated the same as an exception to the above general rule, and such interim Orders, passed under section 16 have been held amenable to writ jurisdiction under Article 199 of the Constitution of Pakistan. Instances of the same can be found in the case of '**Muhammad Danish Rafiq V. Mst. Nafisa Siddiqui and another**' (2009 MLD 144) wherein this Court exercise writ jurisdiction under Article 199 against a tentative rent order and declared that unless the issue of relationship of landlord and tenant was established, no tentative order under S.16(1) could be passed. Again in '**Mrs. Jumana Khursheed V. IST A.D.J., Karachi East and 2 others**' (2007 YLR 363) writ petition was allowed by this Court against an Order for striking off the defence of a tenant for non-compliance of the tentative rent order, before deciding the issue of landlord-tenant relationship between the parties, and the same was held as a nullity in the eyes of law and without jurisdiction.

7. Before the introduction of the amendments in SRPO in the year 2001, (whereby appeals under section 21 were transferred from the High Court), and on the same issue of landlord-tenant relationship, eviction orders were consistently set aside by this High Court in Appeals under section 21 on the underlying principle that the Rent Controller are vested with the jurisdiction to try cases between landlords and tenants. But where such a relationship is seriously challenged with material on record, it is incumbent upon the Rent Controller to first determine such issue, through a summary inquiry, but when found necessary, by affording the opportunity of recording their evidence, whereafter the Rent Controller should

decide such issue alongwith other issues at the time of final disposal of the case. Without conducting such an inquiry, the Order striking off the tenant's defence may not be sustainable in the eyes of the law. In **'Wazir Ali V. Rent Controller III (East), City Courts, Karachi'** (2001 MLD 12), where the Rent Controller neither considered the objections raised by the tenant, nor satisfied himself about the existence of the relationship; the observations made by the Rent Controller were held as baseless, the petition under Article 199 was converted into appeal under S.21 SRPO and the tentative rent order was declared unlawful. The abundance of case law evolved on the subject begins with the leading case of **'Habibullah v. Bawa Vasdevqir Chelo Shambhugir'** (PLD 1968 Karachi 869) and the Judgments by the Honourable Supreme Court of Pakistan in **'Mst. Miskina Jan V. Rehmat Din'** (1992 SCMR 1149), **'Mrs. Shahnaz Sehgal V. Mrs. Fatima Ashraf and others'** (1986 SCMR 1394) and **'Hajra Bai V. Azmatullah'** (1988 SCMR 679). Later on, the same principles were consistently followed by this High Court in **'Firdous Carpet (Pvt.) Ltd. V. Moti-Ur-Rehman'** (2001 YLR 1339), **'Santoo Mal alias Santosh Kumar V. Gordhan Das'** (1997 MLD 1124), **'Muhammad Asghar and another v. Kholi Din'** (1995 CLC 564), **'Nauroz Khan v. Mst. Zulakha'** (1992 CLC 1930), **'Mirza Shamsul Arfin v. Mst. Abida Khatoon'** (NLR 1990 AC 209), **'Nusrat Oil Mills v. Razzaq & Co.'** (1996 MLD 1501), **'Abdul Hameed and others v. Haji Muhammad Javed'** (1991 MLD 3031), **'S. Zahir Hussain V. Mahbub Jaffer Ali'** (1991 CLC 1256), **'Nizamuddin V. Qamaruddin Jaffar Valiani'** (1991 CLC 1937), **'S. Zahir Hussain V. Mahbub Jaffer Ali'** (1991 CLC 1256), **'Faqir Muhammad V. Hazratullah'** (1989 CLC 252), **'Tahir Ali v. H. Akbar & Co. Ltd.'** (1989 CLC 710), **'Mansoor Ali V. Muhammad Mahmood Alam and another'** (1988 MLD 575), **'Shafique Ahmed V. Abdul Rehman'** (1987 MLD 3265), **'Shabbir Hussain V. Mst. Shamim Khatoon'** (1985 MLD 124) and **'Hasan Mohiuddin V. Muhammad Hanif'** (1985 CLC 1606).

8. Considering the facts of the present case, the Respondent's denial of the claim of an oral agreement of tenancy; the absence of payment of any single month's rent by the Respondent to the petitioner; the prior registration of FIR by petitioner's husband and the acquittal of the accused therein regarding the same property; the pendency of a prior criminal complaint by the petitioner under the Illegal Dispossession Act against the Respondent wherein allegations of forcible dispossession have been alleged by the petitioner; and the Respondent being an institution falling under the Local Government, are all strong factors which require

a determination of a clear relationship between the parties, and do not call for any interference in the impugned Judgment and the Order by the learned Courts below, who have duly considered the above facts and have rightly directed the parties to proceed for recording of evidence on this issue as well. The case-law cited at the Bar does not apply to this case, and the learned counsel could not cite case law whereby a writ petition by a landlord would have been entertained on dismissal of his application under section 16(1) SRPO. No illegality or jurisdictional error could therefore be pointed out, nor does the petitioner's case fall under the exception, as discussed in the Judgments discussed at paragraphs 6 to 8 *supra*. The impugned Judgment and Order are therefore upheld, and the instant petition is disposed of along with the listed application, with directions to the learned Rent Controller to proceed with the trial and conclude the same within a period of 60 days from the date of this Order.

Before parting with this Judgment, the extensive assistance rendered by Mr. Tehseen Ahmad H. Qureshi Advocate, Mr. Muhammad Shareef Solangi, Assistant A.G. and Mr. Mehfooz Ali Leghari Advocate is commended.

JUDGE