

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

**C.P No. S-521 of 2024**

[Muhammad Asif Shaikh v. Nabeel Ahmed & others]

Petitioner : Muhammad Asif Shaikh through  
Mr.Muhammad Zakria Baloch,  
Advocate.

Respondent No.1 : Nabeel Ahmed through Mr.  
Muhammad Asif Shaikh, Advocate.

Respondents No.2&3 : Formal party.

Date of Hearing : **11.02.2026.**

Date of Judgment : **11.02.2026.**

**JUDGMENT**

**RIAZAT ALI SAHAR. J,** - Through this Constitutional Petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has assailed the order dated 18.12.2024 passed by learned 5<sup>th</sup> Additional District Judge, Hyderabad in First Rent Appeal No.127 of 2024, whereby the appeal was dismissed and the order dated 13.11.2024 passed by learned Rent Controller-I, Hyderabad in Rent Application No.01 of 2024 was maintained; as such, the petitioner is seeking following relief:-

- (a) This Hon'ble Court may be please to set aside impugned Orders i.e. Order dated 18<sup>th</sup> December 2024, passed by learned Additional District Judge No.05, Hyderabad in Rent Appeal No.127 of 2024 (Muhammad Asif Shaikh v. Nabeel Ahmed), and Order dated 13.11.2024, passed by learned Rent Controller No.01, Hyderabad.
- (b) That any other relief deems fit and proper may be awarded to petitioner in the interest of justice.

2. The background of the case is that the respondent No.1 filed Rent Application No.01 of 2024 before the learned Rent Controller, Hyderabad, seeking eviction of the petitioner from Shop No.48, C.S. No.449/1, Ward-E, Faqeer Ka Pir, Hyderabad, on the grounds of default in payment of rent and personal *bona fide* requirement. It was stated that the shop was let out through an oral tenancy commencing from October 2008 by the father of respondent No.1 at an initial rent which was subsequently enhanced to Rs.27,000/- per month and that rent remained unpaid from August 2023 onward. The petitioner contested the claim, denied the relationship of landlord and tenant and asserted an oral arrangement whereby he allegedly paid Rs.2.5 million as refundable “fix” amount with monthly payment of Rs.7,500/- till October 2028. During pendency of the rent proceedings, an application under Section 16 (1) of the Sindh Rented Premises Ordinance, 1979 was allowed on 27.08.2024, directing the petitioner to deposit arrears amounting to Rs.351,000/- and future rent regularly. The petitioner failed to comply with the said order. Consequently, upon application under Section 16 (2) SRPO, the learned Rent Controller struck off his defence and ordered eviction vide order dated 13.11.2024. The First Rent Appeal preferred by the petitioner was dismissed on 18.12.2024, holding that no illegality or irregularity was pointed out in the impugned order. Presently, Rent Application No.01 of 2024 stands disposed of in terms of eviction order, while F.C. Suit No.1372/2023 filed by the petitioner for declaration and specific performance is pending before the learned V<sup>th</sup> Senior Civil Judge, Hyderabad, at the stage of plaintiff's evidence.

3. Learned counsel for the petitioner contends that there exists no relationship of landlord and tenant between the parties and the Rent Controller had no jurisdiction. He contends that the tenancy was superseded by an oral agreement of sale coupled with payment of a substantial refundable amount and therefore the matter required adjudication by a Civil Court. He further contends

that the order under Section 16 (1) SRPO was passed without proper appreciation of objections and that non-filing of rejoinder affidavit amounted to admission of petitioner's plea. Learned counsel contends that striking off defence without affording adequate opportunity was illegal and violative of due process. He contends that the appellate court dismissed the appeal without properly considering jurisdictional objections and that both courts below misapplied provisions of the SRPO. Lastly, he contends that the impugned orders suffer from material irregularity and are *coram non judice*, as such, learned counsel prays that the impugned judgment may be set-aside.

4. Learned counsel for respondent No.1 contends that the petitioner plainly admitted tenancy in his own plaint in F.C. Suit No.1372/2023 by acknowledging payment of monthly rent of Rs.7,500/- till October 2028. He contends that mere plea of oral sale without documentary proof does not deny the Rent Controller of jurisdiction. He contends that the order under Section 16 (1) SRPO was lawfully passed after hearing both sides and the petitioner willfully failed to deposit arrears despite clear directions. Learned counsel contends that compliance of tentative rent order is mandatory and non-compliance entails striking off defence under Section 16 (2) SRPO. He contends that both courts below passed well-reasoned orders requiring no interference in constitutional jurisdiction.

5. After hearing learned counsel and perusing the record, it appears that the petitioner, in his own plaint in F.C. Suit No.1372/2023, categorically admitted obtaining the shop in October 2008 on payment of Rs.2.5 million with a stipulation of monthly payment of Rs.7,500/- till October 2028, refundable at the time of vacation. Such averments clearly establish the existence of a landlord-tenant relationship, notwithstanding the nomenclature of "oral fix" or alleged oral sale. The plea of oral agreement of sale, unsupported, cannot defeat statutory jurisdiction of the Rent Controller.

6. The order dated 27.08.2024 under Section 16 (1) SRPO was passed after hearing the parties and directed to deposit arrears and future rent. The petitioner admittedly failed to comply with the said mandatory order. The consequence provided under Section 16 (2) SRPO, is automatic striking off of defence upon non-compliance. The learned Rent Controller rightly exercised jurisdiction in accordance with law and the appellate Court correctly affirmed the same after examining the record. No jurisdictional defect, illegality, or material irregularity has been demonstrated warranting interference under Article 199 of the Constitution.

7. It is settled law that constitutional jurisdiction is not to be invoked as a substitute for statutory remedies or to re-appraise evidence unless patent illegality or perversity is shown. In the present case, both courts below have passed reasoned and speaking orders strictly in consonance with the provisions of the Sindh Rented Premises Ordinance, 1979. Consequently, the instant Constitutional Petition is **dismissed** with no order as to costs. The impugned Judgment dated 18.12.2024 and Order dated 13.11.2024 passed by the Courts below are maintained. The petitioner is directed to vacate the demised premises and hand over vacant possession to respondent No.1 within thirty (30) days.

8. Let copy of this order be communicated to the learned Rent Controller for compliance.

**JUDGE**