

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

**C.P No.S-79 of 2025**

*Kanwar Jafar Ali Khan Vs. Nauman Qambrani and others*

Petitioner: Kanwar Jafar Ali Khan through Agha Ghulam Abbas, Advocate.

Respondent No.1&2: Nemo

Respondent No.3&4: Through Mr. Allah Bachayo Soomro, Additional Advocate General, Sindh.

Date of hearing: 09.02.2026.

Date of decision: 09.02.2026.

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

**RIAZAT ALI SAHAR, J.-** Through the instant Petition, the Petitioner has assailed the judgment dated 17.12.2024 passed by the learned Additional District Judge-VIII, Hyderabad (“Appellate Court”) in First Rent Appeal No. 133/2024, whereby the said appeal was dismissed in limine as being time-barred, with no order as to costs.

2. In brief, the relevant facts are that the Petitioner instituted Rent Application No. 157 of 2022 before the learned Senior Civil Judge-VIII, Hyderabad (“Trial Court”) against Respondent No.1 (Nauman Qambrani) seeking ejection under the provisions of the Sindh Rented Premises Ordinance, 1979 in respect of a shop measuring 267 (35-02) sq. ft., situated at City Survey Hussainabad, Taluka Latifabad, Hyderabad (“the subject Shop”). The said Rent Application was allowed vide judgment dated 06.05.2023. Consequent upon the said judgment, the Petitioner/landlord filed Execution Application No.40 of 2023. Upon issuance of notices in the execution proceedings, Respondent No.2 (Mst.Rehana Yasmeen), claiming to be an intervener, filed two applications, i.e., an application under Section 12 (2) C.P.C. and an application under Section 21 (2) of the Sindh Rented Premises Ordinance, 1979. After filing of the said applications, the learned Trial Court, vide order dated 21.12.2023, framed the following issues:

- i. Whether the applicant / landlord has obtained the Judgment dated: 06.05.2023 by playing fraud and misrepresentation?
- ii. Whether the applicant /intervener has any locus standi to challenge the Judgment dated: 06.05.2023, under Section 12 (2) C.P.C?
- iii. What should the order be?

3. After a full-fledged trial, the learned Trial Court, vide order dated 08.11.2024, allowed the application under Section 12 (2) C.P.C. filed by Respondent No.2 (Mst. Rehana Yasmeeen) and consequently set aside the judgment dated 06.05.2023 passed in Rent Application No.157 of 2022. The application under Section 21 (2) of the Sindh Rented Premises Ordinance, 1979 was disposed of as having become infructuous. Consequently, Execution Application No.40 of 2023 filed by the Petitioner in pursuance of the judgment dated 06.05.2023 was also dismissed. The relevant portion of the order dated 08.11.2024 passed by the learned Trial Court is reproduced as under;

*“21. In light of the above findings and the reasoning provided, an application filed under Section 12(2) of the Civil Procedure Code (CPC) by the applicant/intervener, Mst. Rehana Yasmeeen, is hereby allowed while an application under Section 21(2) Sindh Rented Premises Ordinance, 1979 (SRPO) filed by the applicant/intervener with a prayer to stay execution application shall be infructuous. As a result, the Rent Judgment dated 06.05.2023, passed by this Court in Rent Application No. 157/2022, is set aside. It is noteworthy that the respondent/landlord himself admitted during the proceedings that the rented premises were never let out to the opponent/tenant, Nouman Qambrani. This admission has significant implications for the case. Given this factual admission, there is no necessity to entertain or receive written objections on the main application from the applicant/intervener, as the central premise upon which the rent application was filed—the existence of a tenancy between the landlord and Nouman Qambrani—has been nullified. Therefore, the rent application is dismissed accordingly, as there is no legal or factual basis to proceed further with the claim. Consequently, the Rent Execution Application No. 40/2023, filed by the applicant/landlord, is dismissed, as it is now rendered infructuous in light of the dismissal of the main rent application. The proceedings related to both the rent application and execution application are hereby*

*concluded, and no further action is required from the Court on these matters.”*

4. The aforesaid order of the learned Trial Court was assailed by the Petitioner through First Rent Appeal No. 133/2024; however, the said appeal was dismissed vide judgment dated 17.12.2024 by the learned Appellate Court. Being aggrieved and dissatisfied therewith, the Petitioner has instituted the instant Petition.

5. Learned counsel for the Petitioner vehemently argued at length and contended that the order passed by the learned Trial Court on the applications moved by Respondent No.2 is contrary to law and the record. He further submitted that the learned Appellate Court dismissed the rent appeal in limine as time-barred without appreciating that valuable rights of the parties were involved and that a delay of a few days ought to have been condoned, particularly when the learned Appellate Court possessed ample jurisdiction to do so. It was further argued that Respondent No.2 was not entitled to any relief; nevertheless, the learned Trial Court unlawfully set aside the earlier judgment passed in favour of the Petitioner. According to learned counsel, the learned Trial Court failed to properly consider the documentary and oral evidence brought on record, including the documents exhibited during evidence, and consequently passed an order which is unsustainable in the eyes of law. Learned counsel also contended that the applicant/intervener has raised a false claim of possession over the demised premises, whereas the Petitioner is the legal and lawful owner of the subject property/shop. He added that the electricity bills produced by Respondent No.2 pertain to City Survey No.271-A, whereas the demised premises forms part of City Survey No.267; thus, the said electricity bills were irrelevant, yet the learned Trial Court relied upon the same. On these premises, he prayed that the order of the learned Trial Court, as well as the judgment of the learned Appellate Court, be set aside and that the instant Petition be allowed.

6. On his turn, the learned A.A.G., appearing as a formal party, submitted that the dispute is purely inter se between private parties and no governmental interest is involved; therefore, the matter may be decided strictly on its own merits.

7. Heard and perused the record.

8. It is well settled that the constitutional jurisdiction of this Court under Article 199 of the Constitution is supervisory in nature and not appellate. Interference is warranted only where the impugned order suffers from *coram non iudice*, jurisdictional defect, patent illegality, violation of mandatory statutory provisions, or manifest perversity resulting in miscarriage of justice. The constitutional jurisdiction is not meant to reappraise evidence or to substitute the Court's own view merely because another interpretation is possible. Where the subordinate forum has exercised jurisdiction vested in it by law and has rendered findings upon appreciation of evidence, such findings ordinarily remain immune from interference unless shown to be wholly arbitrary or perverse.

9. The controversy in the present matter arises from the fact that the Petitioner instituted a Rent Application against Respondent No.1, namely Nauman Qambrani, seeking his ejection under the provisions of the Sindh Rented Premises Ordinance, 1979 in respect of a shop measuring 267 (35-02) square feet, situated at City Survey Hussainabad, Taluka Latifabad, Hyderabad. The Petitioner succeeded and obtained a judgment in his favour dated 06.05.2023. For execution of the said judgment, the Petitioner filed Execution Application No.40 of 2023. During the execution proceedings, Respondent No.2, Mst. Rehana Yasmeen, appeared before the learned Trial Court and filed two separate applications, i.e., an application under Section 12 (2) C.P.C. and an application under Section 21 (2) of the Sindh Rented Premises Ordinance, 1979. The said applications were allowed, as noted above, whereafter the Petitioner preferred First Rent Appeal No.133 of 2024; however, the same was dismissed in limine solely on the ground of limitation on account of delay in filing. Consequently, the Petitioner has instituted the instant Constitutional Petition impugning the judgment of the learned Appellate Court.

10. The Honourable Supreme Court, in the seminal judgment rendered in *Shakeel Ahmed and another v. Muhammad Tariq Farogh and others* (2010 SCMR 1925), has conclusively held that the appellate authority constituted under the Sindh Rented Premises Ordinance, 1979 is the final statutory forum and that the constitutional

jurisdiction under Article 199 of the Constitution cannot be invoked merely to re-examine the correctness of findings at the behest of an aggrieved party seeking a further round of scrutiny. The relevant extract reads as follows:

“8. ...that jurisdiction under Article 199 of the Constitution cannot be invoked as a substitute of another appeal against the order of the appellate Court. Therefore, mere fact that upon perusal of evidence, High Court came to another conclusion would not furnish a valid ground for interference in the order of the appellate Court, which is final authority in the hierarchy of rent laws i.e. *Sindh Rented Premises Ordinance, 1979*.

11. This authoritative pronouncement was subsequently followed by this Court in ***Messrs Atif Ali and another v. Mst. Noor Jahan through Attorney and others (2015 CLC 310)***, wherein the same principle was reaffirmed, that the High Court cannot be converted into a fact-finding or appellate forum in rent matters merely because a litigant is dissatisfied with the outcome before the statutory appellate authority.

12. Since the Petitioner's appeal before the learned Appellate Court was dismissed solely on the ground of limitation, it is noted that the Petitioner filed the First Rent Appeal on 12.12.2024 impugning the order of the learned Trial Court dated 08.11.2024. The appeal was thus filed with a delay of approximately three days; however, no explanation for the said delay was furnished, nor was any sufficient cause placed on record to justify the belated filing of the appeal. It is a settled principle of law that even a short delay must be satisfactorily explained and the party seeking condonation is under a legal obligation to account for each day's delay. In the present case, no such justification has been offered.

13. The object of limitation law is not merely procedural but substantive in character. It ensures finality in litigation and prevents revival of stale claims. The law assists the vigilant and not those who sleep over their rights. Even where the delay appears minimal, the Court cannot condone it in the absence of a plausible and *bona fide* explanation. Discretion to condone delay is judicial and not arbitrary; it

must be exercised upon sound legal principles and supported by sufficient cause, which in the present case is conspicuously absent.

14. The Honourable Supreme Court of Pakistan, in *Khushi Muhammad through LRs and others v. Mst. Fazal Bibi and others*(PLD 2016 SC 872), held that the law of limitation is to be applied strictly and not with a lenient approach; consequently, the appellant must explain the delay of each day with reasonable and cogent justification.

15. The Petitioner initially succeeded in obtaining an order in his favour from the learned Rent Controller; however, the said order/judgment was subsequently set aside. The Petitioner thereafter preferred an appeal but remained unsuccessful, as the same was dismissed in limine on account of delay in filing. Even otherwise, the Petitioner has failed to point out any illegality or material irregularity in the order dated 08.11.2024 passed by the learned Rent Controller-VIII, Hyderabad.

16. It is also pertinent to observe that the learned Trial Court exercised jurisdiction under Section 12 (2) C.P.C., which is a substantive remedy designed to recall judgments obtained through fraud or misrepresentation. Once the Court recorded findings, *inter alia*, regarding the admission of the landlord that the premises had never been let out to the alleged tenant, the very foundation of the rent proceedings stood eroded. A judgment rendered upon a non-existent tenancy cannot be permitted to stand merely on technical considerations. Fraud, if established, vitiates even the most solemn proceedings and the Court is under a duty to rectify such error when brought to its notice through lawful procedure. The Petitioner has essentially sought to convert this Constitutional Petition into a second appeal on facts, which is impermissible under the scheme of the Sindh Rented Premises Ordinance, 1979. The appellate authority under the Ordinance being the final fact-finding forum, this Court cannot reopen concurrent or reasoned findings in absence of demonstrable jurisdictional error. No such defect has been pointed out.

17. For the foregoing reasons, this Constitutional Petition is **dismissed**. The impugned judgment dated 17.12.2024 passed by the

learned Appellate Court, as well as the order dated 08.11.2024 passed by the learned Trial Court, do not suffer from any jurisdictional infirmity, material illegality, or perversity so as to warrant interference in exercise of constitutional jurisdiction under Article 199 of the Constitution. The parties shall bear their own costs.

**JUDGE**

Ali.