

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Constitution Petition No. S-420 of 2024
(Muneer Ahmed @ Gul Muneer and another v. Fazullah & others.)

Before:-
Mr. Justice Ali Haider 'Ada'

Petitioners	:	Muneer Ahmed alias Gul Muneer and another, <i>through</i> Mr. Vinod Kumar G. Jesrani, Advocate for Petitioners alongwith Petitioner No.1.
Respondent No.1	:	Fazullah through Mr. Atta Hussain Chandio, Advocate alongwith Respondent No.1.
Respondent No.2 and 3	:	The Senior Civil Judge/ Rent Controller, Rato Dero and The Additional District Judge, Rato Dero.
		Mr. Abdul Waris Bhutto, Assistant Advocate General.
Date of Hearing	:	21.08.2026.
Date of Decision	:	21.08.2026.
Date of Reasons	:	24.08.2026.

JUDGMENT

Ali Haider 'Ada' J:- The Rent Application was instituted by respondent No.1 in his capacity as Mutawali of Jamia Masjid in respect of different City Survey numbers. The properties bearing C.S. Nos.120 and 121, situated at Azad Medan, Mohalla Ratodero, were claimed to belong to respondent No.1 in his capacity as Mutawali. In support of his claim, respondent No.1 placed on record an extract of the Property Register Card issued by the City Survey Officer in respect of C.S. Nos.114, 115/1, 115/2, 115/3, 118, 119, 120 and 121, which reflects that the shops in question are attached to the Masjid.

2. Accordingly, the Rent Application was filed against petitioners Nos.1 and 2, who were impleaded before the learned Rent Controller as respondents Nos.1 and 2. The substance of the allegation was that the petitioners were in possession of the shops in question but had failed to pay the rent for the preceding one year. It was further alleged that Muneer Ahmed, respondent No.1 before the Rent Controller and petitioner No.1

herein, had sublet the premises bearing C.S. Nos.120 and 121 to respondent No.2, namely, Taj Muhammad, petitioner No.2 herein.

3. The petitioners, in their written statement filed before the learned Rent Controller, denied the relationship of landlord and tenant and asserted that they had property bearing C.S. No.122, rather than C.S. Nos.120 and 121. On this premise, they contended that the Rent Application was misconceived and liable to be dismissed.

4. On the basis of the pleadings, the parties led their respective evidence. Upon conclusion of the proceedings and after hearing the learned counsel for the parties, the learned Rent Controller/Senior Civil Judge, Ratodero, allowed the Rent Application in favour of respondent No.1 vide order dated 27.06.2024. Being aggrieved by the said order, the petitioners preferred a Rent Appeal before the learned District Judge, Larkana, which was entrusted to the learned Additional District Judge, Ratodero. The appellate Court, after examining the matter, dismissed the appeal and maintained the findings recorded by the learned Rent Controller. Consequently, the petitioners have called in question the concurrent findings of both the Courts below through the instant petition.

5. Learned counsel for the petitioners primarily contended that the relationship of landlord and tenant was seriously disputed and that respondent No.1 was not entitled to seek restoration of possession of the premises in question, particularly when, according to the petitioners, they were occupying a different property bearing C.S. No.122 and not C.S. Nos.120 and 121 as claimed in the Rent Application. He, therefore, prayed for setting aside the impugned orders passed by the Courts below.

6. Conversely, learned counsel for respondent No.1 controverted the assertions advanced on behalf of the petitioners and submitted that the plea regarding occupation of a different survey number was misconceived and was not supported by the pleadings or evidence brought on record by the petitioners. He drew the attention of the Court to the contents of the written statement as well as the depositions of the petitioners, contending that they had failed to establish that they were occupying C.S. No.122. He further submitted that the revenue record clearly supported the claim of respondent No.1 and that the petitioners' possession over the premises in question was itself established from the record. He, therefore, maintained

that the concurrent findings recorded by the Courts below were based upon proper appreciation of the evidence and called for no interference.

7. Heard the learned counsel for the parties and perused the available record.

8. The principal question requiring determination is whether the relationship between the parties stood validly disputed by the petitioners or whether, on the contrary, the material available on record establishes their possession over the demised premises bearing C.S. Nos.120 and 121. Upon careful examination of the proceedings conducted before the learned Rent Controller, it transpires that, despite the plea taken by the petitioners that they were occupying C.S. No.122, no convincing material has been brought on record to substantiate such assertion. More importantly, there is no categorical and unequivocal denial, either in the pleadings or in the evidence, that the petitioners had the premises bearing C.S. Nos.120 and 121. This aspect is further fortified by the deposition of petitioner No.1 himself, which assumes considerable significance. During his cross-examination, petitioner No.1 admitted his possession over C.S. No.120 and deposed as under:—

“There are about 15/16 shops attached with Masjid in question. The shop possessed by me is situated in Survey No.120. It is correct to suggest that City Survey Number 120 is not in my name. It is correct to suggest that I do not have any title document showing the City Survey No.120 in my name. It is correct to suggest that I have not produced any document with my written statement or evidence showing the ownership of C.S No.120 in my name. It is correct to suggest that I have not produced any document showing the possession of the shop in question lying with me”.

9. Such admission on the part of petitioner No.1 materially contradicts and, in effect, negates the plea subsequently advanced by the petitioners that they were in possession of C.S. No.122. It is significant to note that such plea was introduced for the first time before this Court, whereas no material was brought on record during the proceedings before the learned Rent Controller to demonstrate that the petitioners were actually occupying C.S. No.122. Having failed to take and substantiate such plea before the learned Rent Controller, the petitioners cannot be permitted to introduce an altogether new factual stance at this belated stage, particularly when the same stands contrary to the admission made by petitioner No.1 during his cross-examination. Guidance may be drawn from the judgment of the

Hon'ble Supreme Court in **Gulzar Ahmad v. Muhammad Anwar (2003 SCMR 1008)**.

10. The record further reveals no illegality, irregularity or perversity in the concurrent findings recorded by the learned Rent Controller and the learned appellate Court warranting interference in the Constitutional jurisdiction of this Court. Respondent No.1/landlord successfully established the relationship of landlord and tenant between the parties, as well as the petitioners' default in complying with the tentative rent order. In this regard, reference may be made to the judgment of the Hon'ble Supreme Court in **Dr. Muhammad Bashir Qasim v. Gulzar Mehmood (2026 SCMR 321)**.

11. In view of the foregoing facts and circumstances, no ground has been made out for interference with the impugned judgment and order passed by the Courts below. Consequently, the instant Constitution Petition is dismissed and the decisions of the learned Courts below are maintained. These are the detailed reasons in support of the short order dated 21.08.2026.

JUDGE