

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

*Constitutional Petition No. S-158 of 2022.
(Syed Ali Gul Shah through attorney vs Munir Ahmed through LRs
and others).*

Date of hearing	Order with signature(s) of Judge(s)
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*For hearing of CMA No. 462/2022(S/A).
For hearing of the main case.*

Date of Hearing : 04.05.2026.
Date of Short Order : 04.05.2026.
Date of Reasons : 18.05.2026.

Mr. Abdul Mujeeb Shaikh Advocate for the Petitioner.

Mr. Shafqat Raheem Rajput, Advocate for the Respondent No. 1 to 06.

Mr. Agha Athar Hussain Pathan, Assistant Advocate General

ORDER

Ali Haider 'Ada' J:- Through the instant constitutional petition, the Petitioner has assailed the order dated 22.03.2022, passed by the learned District Judge, Sukkur, in Rent Appeal No. 12 of 2021, whereby the judgment and order dated 31.08.2021 passed by the learned Rent Controller-II, Sukkur (trial Court), was upheld. Both the concurrent findings of the Courts below have been challenged through the present petition.

2. The precise case of the Petitioner is that he claimed himself to be the landlord, being a co-sharer in Survey No. 33, Deh Yaqoob Ali Shah, Rohri, District Sukkur. It is alleged that after constructing shops and residential units over the said property, the same was rented out to the Respondent through rent agreement executed in the year of 2001. According to the Petitioner, the Respondent made unauthorized constructions over the demised premises, committed default in payment of rent, and the property was also required for the personal use of his son. On these grounds, the Petitioner instituted a rent application seeking eviction of the Respondents.

3. In response, the Respondent filed his written statement, contending that the demised premises formed part of Jagir lands which stood abolished in the year 1964. He denied the title of the Petitioner, asserting that he had failed to produce any documentary evidence to establish ownership. The Respondent relied upon a Rubkari issued by the Mukhtiarkar, Rohri, which reflects that the demised premises are excluded from Deh Yaqoob Ali Shah. The Respondent further denied the existence of any relationship of landlord and tenant between the parties.

4. The learned trial Court, after full fledged trial, dismissed the rent application filed by the Petitioner. The said findings were subsequently affirmed by the learned Appellate Court.

5. Learned counsel for the Petitioner contended that the material available on record sufficiently establishes the Petitioner's status as landlord being a co-sharer, and that he possesses a better right over the demised premises. It was argued that the Respondents (after the death of Respondent Munir Ahmed, his legal heirs were brought on record as respondents, who have contested the instant petition), have failed to produce any lawful document to justify their possession; however, such material aspects were not properly appreciated by the Courts below, which passed the impugned judgments without due consideration of the evidence. He prayed for setting aside the concurrent findings and for allowing the rent application.

6. Conversely, learned counsel for the Respondents submitted that the Petitioner has no locus standi to initiate rent proceedings, as he has failed to establish his ownership or legal title over the property. It was contended that even during cross-examination, the Petitioner admitted his inability to produce any documentary evidence of title. It was further argued that in the absence of proof of ownership or landlord-tenant relationship, the Petitioner cannot

seek eviction through rent proceedings. At best, the matter involves a disputed question of title and possession, which can only be adjudicated by a competent Civil court. He maintained that both courts below have rightly appreciated the evidence and passed well-reasoned judgments.

7. Learned Assistant Advocate General also supported the impugned judgments and submitted that no case for interference is made out, as the concurrent findings of fact do not suffer from any legal infirmity or jurisdictional defect.

8. Heard learned counsel for the parties and perused the material available on record.

9. Firstly, the evidence led by the Petitioner is required to be examined in order to ascertain whether he has prima facie established his case. In this regard, the attorney of the Petitioner appeared as a witness. During cross-examination, he admitted that the Petitioner is not reflected as the owner in Survey No. 33, Deh Yaqoob Ali Shah. He further conceded that no title document has been produced on record to establish the ownership of the Petitioner over the subject property. Moreover, said witness also acknowledged the Rubkari issued by the Mukhtiarkar, which indicates that the demised premises, forming the subject matter of the rent proceedings, stand ousted from Deh Yaqoob Ali Shah.

10. It is also quite significant to note that, during the cross-examination of the Respondents' witnesses, a suggestion was put by the learned counsel for the Petitioner to the effect that the land in question is Government land. This suggestion, in itself, undermines the Petitioner's own claim of ownership and creates a serious dent in his assertion of ownership.

11. It is recognized that where a landlord fails to establish the existence of a relationship of landlord and tenant, he is not entitled

to any affirmative finding on such issue. In rent proceedings, the Rent Controller is not competent to adjudicate upon disputed questions of title. The proper course in such circumstances is for the Rent Controller to decline relief and leave the parties to seek determination of title before a Court of competent civil jurisdiction prior to initiating ejectment proceedings. In this regard, reliance is placed upon the case of *Rehmatullah versus Ali Muhammad (1983 SCMR 1064)*.

12. It is a settled principle of law that the landlord must establish his status as landlord as well as the existence of a landlord-tenant relationship. Where there is confusion or dispute regarding the ownership of the demised premises, the Rent Controller lacks jurisdiction to adjudicate such questions of title. In such circumstances, the proper forum for determination of title is the competent civil court. Reliance in this regard is placed upon the case of *Abdul Ghaffoor and others versus Mst. Sakina and others (2026 CLC 594)*.

13. So far as the question of the tenancy agreement is concerned, even if the same is unwritten or oral, it does not dispense with the requirement of proof. An alleged agreement, whether written or oral, must be established through credible and reliable evidence. In the present case, the Petitioner has asserted that a tenancy agreement was executed in the year 2001 and that the Respondents came into possession of the demised shop pursuant thereto. However, this assertion is contradicted by the Petitioner's own evidence. The Petitioner's witness admitted that Respondent Muneer Ahmed has been in possession of the premises since 1973. This position was further corroborated by another witness of the Petitioner, namely Ali Raza alias Syed Raza Hussain Shah. In view of such admissions, the claim regarding execution of a tenancy agreement in the year 2001 becomes highly doubtful and unreliable. Consequently, the existence of the alleged agreement cannot be

accepted unless proved through unimpeachable and trustworthy evidence, which is lacking in the present case. Support is drawn from the case of *Muhammad Nawaz versus Haji Muhammad Baran Khan* (2013 SCMR 1300).

14. It has been consistently held that the question of title/ownership must be determined prior to seeking ejectment of a respondent through rent proceedings. In the absence of a proven relationship of landlord and tenant between the parties, any dispute regarding title or ownership of the property falls outside the jurisdictional domain of the learned Rent Controller and is to be adjudicated by a competent civil court. It is further well-established that the issue as to whether a relationship of landlord and tenant exists between the parties is a question of jurisdiction and must be determined at the very outset. In case such relationship is not established, the Rent Controller ceases to have jurisdiction over the lis and must refrain from proceeding further. In this regard, reliance is placed upon the dictum laid down in **MUHAMMAD ISMAIL versus ISRAR AHMAD PLD 1961 Lahore 601 (DB)**, wherein it has been held that if the relationship of landlord and tenant is not proved, the Court must stay its hands forthwith. There is no cavil to the proposition that non-establishment of the relationship of landlord and tenant, as envisaged under the relevant rent law, would not attract the provisions of the said law. This principle has been reiterated in **HYDERABAD MEMON ANJUMAN versus DIWAN KEWALRAM 1971 SCMR 82**. Similarly, in the case of *Afzal Ahmed Qureshi vs. Mursaleen* (2001 SCMR 1434), the Honourable Supreme Court has held that where the relationship of landlord and tenant is denied, such issue, being jurisdictional in nature, must be determined first; and if answered in the negative, the Rent Controller loses jurisdiction, rendering the ejectment proceedings incompetent. Consequently, the provisions of the Sindh Rented Premises Ordinance, 1979 would not be attracted in the absence of such relationship.

15. For the foregoing reasons and discussion, no case for interference with the concurrent findings of the Courts below was made out. Accordingly, the instant constitutional petition was dismissed vide short order dated 04.05.2026, whereby the judgments passed by the learned trial Court as well as the appellate Court were upheld.

These are the detailed reasons for the short order.

JUDGE