

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI
Const. Petition No. S-1021 of 2026

Date	Order with signature(s) of Judge(s)
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- Fresh case.
1.For orders on CMA No.7322/2026
2.For orders on office objection No.1 at flag “A”
3.For orders on CMA No. 7323/2026
4.For orders on CMA No. 7324/2026
5.For hearing of main case.

3rd October, 2026.

M/s Ahmed Ali Hussain & Muneer Ali Mangi, Advocates
for petitioner.

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1. Urgency granted.
- 2-5. Through instant petition, the petitioner, being tenant/judgment-debtor, has called in question order dated 02.10.2026 passed by learned District Judge, Karachi-South, in Civil Revision No.296/2026, whereby operation of the order dated 24.09.2026 passed by learned 1st Senior Civil Judge/Rent Controller, Karachi-South, granting conditional protection against execution of the ejectment order, has been suspended.

Briefly, Rent Case No.445/2018 filed against the petitioner was allowed vide judgment/order dated 08.10.2024 and petitioner was directed to vacate the demised premises. First Rent Appeal No.295/2024 preferred thereagainst was dismissed on 24.02.2025. Thereafter, C.P. No.S-301/2025 filed by the petitioner was also dismissed by this Court vide order dated 16.06.2026, while granting forty-five days’ time to vacate the premises. CPLA No.402-K/2026 preferred by the petitioner before the Honourable Supreme Court of Pakistan is stated to have been heard and judgment therein is reserved.

During execution of the ejectment order, the petitioner filed an application under Section 12(2), read with Section 151, C.P.C., alleging, inter alia, fraud and misrepresentation in obtaining the ejectment order, principally by questioning the respondent’s status as landlord of the demised premises. Said application was transmitted to the concerned Rent Controller for appropriate orders in accordance with law. Subsequently, vide order dated 24.09.2026, conditional protection against issuance and execution of the writ of possession was granted, subject, inter alia, to deposit of arrears/current rent and furnishing of security. The respondent challenged said order through Civil

Revision No.296/2026 and, vide impugned order dated 02.10.2026, learned District Judge suspended its operation to the extent of execution proceedings.

Learned counsel for the petitioner contends that serious allegations of fraud and misrepresentation concerning respondent's status as landlord have been raised in the application under Section 12(2), C.P.C.; therefore, execution ought not to proceed until such application is finally adjudicated.

I have heard learned counsel for the petitioner and examined the material available on record. Admittedly, the ejectment order dated 08.10.2024 was passed after contest. The petitioner's First Rent Appeal No.295/2024 was dismissed on 24.02.2025 and C.P. No.S-301/2025 filed thereafter was also dismissed by this Court on 16.06.2026, while granting forty-five days' time to vacate the premises. CPLA No.402-K/2026 preferred by the petitioner before Honourable Supreme Court of Pakistan is stated to have been heard and judgment therein is reserved.

Pivotal question at this stage is not whether petitioner's application under Section 12(2), C.P.C. ultimately merits acceptance or rejection, but whether mere institution and pendency of such application furnishes a legal basis for keeping execution of the ejectment order in abeyance. The answer, in the circumstances presently obtaining, is in negative. Filing of an application under Section 12(2), C.P.C. does not, by its own force, suspend the operation or execution of the judgment/order sought to be questioned. Unless its operation or execution is restrained by a competent Court, mere institution of proceedings under Section 12(2), C.P.C. does not render the judgment/order inexecutable.

Learned District Judge, while passing impugned order dated 02.10.2026, has merely removed the restraint placed upon execution by the order dated 24.09.2026. The underlying ejectment order remains operative. In these circumstances, no jurisdictional defect, material illegality, perversity or patent misreading or non-reading of the record has been demonstrated in the impugned order so as to warrant interference by this Court in exercise of its constitutional jurisdiction.

It is, however, expressly clarified that nothing observed herein shall be construed as an expression of opinion regarding the maintainability or merits of the petitioner's application under Section 12(2), read with Section 151, C.P.C. The competent Court shall consider and decide same independently, strictly in accordance with law and on its own merits, without being influenced by any

observation contained in this order. Likewise, nothing observed herein shall affect or prejudice the proceedings stated to be pending before the Honourable Supreme Court of Pakistan in CPLA No.402-K/2026.

Constitutional jurisdiction under Article 199 of the Constitution is supervisory in character and does not provide an additional appellate forum for correction of every interlocutory order passed by a subordinate Court. In absence of any jurisdictional defect, material illegality, perversity or patent misreading or non-reading of the record resulting in miscarriage of justice, no interference is called for.

Consequently, finding no ground warranting interference with the impugned order dated 02.10.2026, instant petition is dismissed in *limine* along with the pending application(s).

Aamir/PS

Judge
Head of Const. Benches