

ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA
Const. Petition No. S- 413 of 2024
(Gulzar Ahmed v. Town Officer, T.C, Chak & Ors)

DATE	ORDER WITH SIGNATURE OF JUDGE
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Hearing / Priority cases

1. For orders on office objection flag 'A'
2. For Hearing of M.A No. 908/2024 (S/A)
3. For Hearing of main case.

Date of hearing and Order: 10.03.2025

Mr. Abdul Rehman A. Bhutto, Advocate for the petitioner.

Mr. Abdul Waris K. Bhutto, Asstt: AG for the State.

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ORDER

Adnan-ul-Karim Memon, J- At the very outset, learned counsel for the petitioner submits that the petitioner is a tenant of a shop situated in Town Chak Taluka Lakhi Ghulam Shah district Shaikarpur. He filed a rent application for the fixation of fair rent, which was dismissed as not maintainable. However, the respondents were directed to restore the possession of all perishable (even not perishable) articles to the applicant within two months. An excerpt of the judgment dated 31.08.2024, passed by the learned 2nd Additional District Judge, Shikarpur, is reproduced as under;

- “7. I have heard the argument and have gone through the record. No doubt, possession of tenant was protected under 12 of SRPO, 1979, but that statute nowhere empowers Rent Controller to maintain interim possession in the rent proceedings. Section 20 of SRPO 1979 only confers limited powers of Civil Court on Rent Controller in the matters of recording evidence.
8. Rent Controller has based his order on environmental, civil and criminal laws and has relied upon judgments rendered in cases related to those cases which were irrelevant for the matter in hand. The appropriate remedy for the respondent/tenant for his illegal eviction from tenement shop was to approach the competent Civil Court in its plenty jurisdiction.
9. For above reasons, I have to reply to the point for determination in affirmative and allowing this appeal, set aside the impugned order of Rent Controller being *corum non iudice*.”

2. Learned counsel for the applicant submits that subsequently the petitioner was dispossessed and another application to restore the possession was allowed vide order dated 27.05.2024, available on page No. 53. This order was challenged

by the respondents in rent application No. 09/2024, and the learned II-Additional District Judge, Shikarpur allowed the appeal setting aside the order of the Rent Controller. Learned counsel submits that the petitioner is a tenant who regularly pays rent to the respondents and has serious apprehensions of being dispossessed. He submits that the order of the appellate Court is illegal and in violation of section 13 of the Sindh Rented Premises Ordinance, 1979. According to the counsel, the petitioner is a statutory tenant and has a fundamental right to invoke the jurisdiction of this Court and the order passed by the appellate Court, which is illegal and against the dicta laid down by the Supreme Court and the respondents have no legal authority to dispossess him without due course of law. Learned counsel submits that there is apprehension that the respondents may resort to section 15 of Sindh Rented Premises Ordinance, 1979 and the petitioner may be evicted from the premises without due course of law. Prima facie, the respondents have not taken any action against the petitioner and this is a mere apprehension as the appellate court has simply directed that the petitioner should avail appropriate remedy from his purported eviction from the tenement shop, therefore, if the respondents are willing to take action, they may do so, under law; and, in the intervening period, the petitioner may avail his remedy as suggested by the appellate Court against the alleged eviction from the subject premises within the bonds of law.

3. Without prejudice to the rights of parties in the matter and without touching the merits of the case, the petition is disposed of in the above terms.