

*Judgment Sheet*  
**IN THE HIGH COURT OF SINDH AT KARACHI**

**C.P. No.S-1146 of 2024**  
[*Salamat v. Ghulam Jilani & another*]

Petitioner : Through Mr. Moulvi Iqbal Haider, Advocate  
Respondent No.1 : Through Mr. Aurangzeb, Advocate.  
Date of Hg. & order : 17-09-2025.

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**ARSHAD HUSSAIN KHAN, J.**- Through instant Constitutional Petition, the petitioner has assailed the Notice dated **27.09.2024**, issued by the learned XII-Rent Controller, Karachi Central, in Execution Application No.07/2024 arising out of Rent Case No.92/2024, whereby the petitioner was directed to vacate the premises within 24 hours. The said notice was issued pursuant to the order dated **08.07.2024**, whereby the Eviction Application was allowed, and that order was subsequently upheld upon dismissal of the petitioner's appeal vide order dated **25.09.2024**. Consequently, the directions requiring the petitioner to deliver vacant and peaceful possession of the demised premises, stood affirmed.

2. Briefly, the facts giving rise to the present petition are that respondent No.1/applicant, claiming to be the owner/landlord, filed an ejectment application being Rent Case No.92/2024 before the XII-Rent Controller, Karachi Central, against the petitioner/opponent on the grounds of default in payment of monthly rent as well as utility charges. The petitioner, despite appearance, failed to file a written statement and was consequently debarred from doing so, vide order dated 03.05.2024. Thereafter, the attorney of respondent No.1 was examined, who produced documents in support of the claim, whereafter the respondent's side was closed. The Rent Controller, vide order dated **08.07.2024**, allowed the ejectment application.

The said order was assailed through First Rent Appeal No.Nil of 2024 before the learned II-Additional District Judge, Karachi Central, which was dismissed being barred by time. That order was never

challenged by the petitioner, whereby the eviction order of the Rent Controller attained finality. However, upon issuance of writ of possession by the Executing Court, the petitioner has now questioned the said notice in the instant Constitutional Petition.

3. Learned counsel for the petitioner, reiterating the contents of the petition, has mainly contended that both the appellate court as well as the executing court failed to appreciate the plea raised in appeal that no relationship of landlord and tenant exists between the parties. It is argued that respondent No.1, who claims to be the owner of the property, never appeared in the evidence, and instead an alleged attorney filed the ejectment application on the basis of a false and fabricated tenancy agreement. According to the learned counsel, the said agreement bears the petitioner's signature in Urdu, however, the petitioner, being an illiterate, has never signed any document and has always affixed his thumb impression. It is further urged that the courts below also failed to consider that the petitioner is the owner of the demised premises by virtue of a sale agreement dated 22.10.2007, in respect whereof a suit for specific performance is already pending adjudication before the competent civil court. Lastly, it is contended that the impugned notice is not sustainable in law and is liable to be set aside.

4. Conversely, learned counsel for respondent No.1, while supporting the judgments and orders of the trial court, appellate court, as well as the executing court, has contended that the same are well-reasoned and judicious, the indolent and negligent conduct of the petitioner is evident from the record and duly reflected in the orders of the courts below. It is thus urged that the petitioner does not deserve any leniency, and the instant petition is liable to be dismissed with costs.

5. I have heard learned counsel for the parties and examined the material available on record.

Perusal of the record reveals that upon the filing of the ejectment application, notices were duly issued to the petitioner/opponent. Consequently, on 28.03.2024, the petitioner, along with his counsel, appeared before the learned Rent Controller. On that date, the counsel

filed a Vakalatnama on behalf of the petitioner and received copies of the proceedings. However, despite being afforded numerous opportunities, the petitioner failed to file a written statement, and was consequently debarred from doing so vide order dated 03.05.2024. Thereafter, the petitioner challenged the said order of the Rent Controller through a time-barred First Rent Appeal, which was dismissed on the point of limitation. The said appellate order was then never assailed, as a result of which the eviction order attained finality. Subsequently, the respondent initiated execution proceedings, in which notice was also issued to the petitioner. However, once again the petitioner sought repeated adjournments and failed to advance arguments, whereupon the execution was allowed. It was only when the writ of possession was issued that the petitioner approached this Court by filing the present petition.

6. Insofar as the contention of the learned counsel regarding the existence of a landlord-tenant relationship is concerned, the same was effectively admitted by the conduct of the petitioner, who, despite service of notices and appearance before the court, failed to file a written statement and was consequently debarred from doing so vide order dated 03.05.2024. Having opted not to contest the proceedings before the learned Rent Controller, the petitioner cannot now be permitted to raise pleas contrary to the record in constitutional jurisdiction.

7. As regards the plea of ownership set up by the petitioner based on a purported sale agreement dated 22.10.2007, the same is misconceived. It is well-settled that rent authorities lack jurisdiction to adjudicate questions of title, which fall exclusively within the domain of the civil court. Moreover, the pendency of a suit for specific performance does not create any embargo on lawful ejectment proceedings initiated before the Rent Controller.

8. With respect to the tenancy agreement relied upon in the ejectment proceedings, the same was duly produced in evidence and proved through the attorney of respondent No.1. In the absence of any rebuttal or counter-evidence by the petitioner, the presumption of correctness attached to the said document remained unrebutted. In these

circumstances, the courts below have rightly passed and maintained the eviction order.

9. The conduct of the petitioner, as discussed above, *prima facie* reflects sheer negligence and a mala fide intent to delay and frustrate the execution of a lawful order, rather than to bona fide pursue his defence. The petitioner, having allowed the eviction order to attain finality and thereafter repeatedly obstructed execution proceedings, cannot now invoke the constitutional jurisdiction of this Court to circumvent the consequences of his own negligence and indolence. It is a well-settled principle of law that “*the law assists the vigilant and not those who sleep over their rights*” this legal principle rooted in the Latin maxim *Vigilantibus non dormientibus jura subveniunt*. This means that individuals must act promptly and diligently to assert their legal rights, as unreasonable delays (commonly known as laches or being time-barred) can lead to their claims being dismissed by courts. The underlying purpose is to ensure the prompt resolution of legal disputes, to prevent evidence from fading or becoming distorted, and provide certainty and finality by protecting potential defendants from stale claims<sup>1</sup>.

10. For the foregoing reasons, I am of the considered view that the instant petition is nothing more than a futile attempt to delay the execution of a lawful decree. The same, being devoid of merit, is accordingly dismissed.

JUDGE

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<sup>1</sup> Akhtar Nasir Ahmed v. Province of Punjab through District Collector Gujrat and others [PLD 2024 SC 1268]; Muhammad Usman Siddiqui v. Mukaram Alam Siddiqui [2021 CLC 553] and Abid Hussain v. Secretary, Ministry of Defence, Government of Pakistan [2021 SCMR 645].