

*Order Sheet*  
**IN THE HIGH COURT OF SINDH, KARACHI**

**C.P. No.S-1053 of 2014**

[Rukhsana v. Nisar Ahmed and others]

Petitioner	Through Mr. Aamir Asher, Advocate
Respondents 1 & 2	Through Mr. Abdul Hameed, Advocate
Respondents 3 & 4	Through M/s.Aale Maqbool & Ahmed Khan Khaskheli, AAGs.
Date of Hearing:	22.10.2025.
Date of Order:	22.10.2025.

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**ARSHAD HUSSAIN KHAN, J.-** Through instant constitutional petition, the petitioner has challenged the order dated **06.02.2014**, passed by the learned Vth-Rent Controller, Karachi (South) in Rent Case No.153 of 2013, whereby application under Section 12(2) CPC was dismissed and the order dated **07.08.2014**, passed by Vth-Additional District Judge, Karachi [South] in First Rent Appeal No.26 of 2014, whereby the appeal was dismissed and the order dated **06.02.2014** was maintained. The petitioner has prayed for setting aside the aforesaid impugned orders.

2. **Briefly**, the petitioner claims to be the lawful tenant of the premises situated on the 2nd floor of “Iqbal Manzil,” constructed on Plot No.3/110, Saify Nagar, Gazdarabad, Karachi, where she has been residing since 1993 with her family. It is asserted that her late father, Jameelur Rehman, had jointly constructed the said building with the original owner, Muhammad Ayyub, and that the second floor was given to him on rent, the construction cost being adjusted as pugree. After the demise of both, disputes arose between their legal heirs, which were amicably settled, and tenancy continued in the family’s possession. The petitioner alleges that her brother, Respondent No.2, in collusion with a fictitious Respondent No.1, instituted a false rent case based on forged documents and misrepresentation, resulting in an ex parte ejectment order passed without notice to her though she was in actual possession. Her application under Section 12(2) CPC was dismissed, and the appeal met the same fate, hence this petition.

3. **Learned counsel for the petitioner argued** that the impugned orders suffer from illegality and material irregularity, having been passed without proper appreciation of the evidence on record and in disregard of the petitioner’s lawful possession of the tenanted premises since 1993. It was contended that the Rent Case was instituted by Respondent No.2 in collusion with a fictitious landlord on the basis of forged and fabricated

documents, and that the proceedings were conducted behind the petitioner's back without service of notice at the actual tenanted premises. Learned counsel submitted that both the courts below failed to examine the fraudulent nature of the Power of Attorney and the fact that the alleged landlady never appeared before the Rent Controller, nor produced any title document in proof of ownership. It was further argued that the petitioner, being the real tenant, has been regularly depositing rent and even instituted Civil Suit No.28/2013 when Respondent No.2 attempted to dispossess her. However, despite these facts and documentary proof, her application under Section 12(2), C.P.C. was dismissed without affording her an opportunity to lead evidence or cross-examine the respondents. It was thus urged that the concurrent findings are perverse, based on misreading and non-reading of material evidence, and liable to be set aside.

4. **Learned counsel for respondent No.1 opposed the petition,** raising preliminary objections to its maintainability on the ground that the petitioner has no locus standi, being neither a tenant of the premises nor having any subsisting tenancy relationship with the respondent/landlord. It was submitted that the decree for eviction was lawfully passed against Altaf-ur-Rehman, the admitted tenant, while the petitioner, being his real sister, and was later introduced as an intervener with mala fide intent to frustrate the decree. Her intervention was rightly rejected by the appellate court for want of any tenancy agreement or rent receipt in her name. Learned counsel has further argued that the petitioner, in collusion with Altaf-ur-Rehman, forged and tampered with rent receipts by inserting the name of one Aslam as owner in place of the actual landlord. Reference was made to MRC No.1311/2005, which, according to counsel, reveals manipulation of record to create a false impression of tenancy, aimed solely at obstructing the execution proceedings after the decree had attained finality.

It was emphasized that the entire record, including the MRC, shows Altaf-ur-Rehman alone as tenant and defaulter, while no document establishes any tenancy between the petitioner and the respondent. The petition, therefore, is a collusive and frivolous attempt to harass the respondent and frustrate lawful execution. The Rent Controller's order dated 06.02.2014, passed after due appraisal of evidence and upheld in appeal, suffers from no illegality or infirmity. The petitioner, having

approached this Court with unclean hands and suppressed material facts, is not entitled to any relief, and the petition, being misconceived and intended only to delay the decree-holder's lawful possession, is liable to be dismissed with special costs.

5. Heard learned counsel for the petitioner, perused the record and the relevant law.

From perusal of the order of the learned trial court dated **06.02.2014**, it reveals that the learned Rent Controller rejected the intervener's application under Section 12(2) CPC after a careful review of the record and the rival pleadings. The court observed that the intervener herself admitted that tenancy receipts were issued in the name of Altaf-ur-Rehman in the year 1986 and that rent was regularly deposited by him in M.R.C. No.1311/2005 up to 08.03.2013. On the basis of these admissions and the absence of any satisfactory evidence establishing a legally recognizable relationship between the intervener and the previous landlord or subsequent owner, the Rent Controller held that no fraud, concealment or misrepresentation by the decree-holder was proved. The application was therefore dismissed for want of merit.

6. On appeal, the learned Appellate Court found no illegality or perversity in the conclusion reached by the trial court. It is observed that the appellant [intervener] had herself admitted that all tenancy receipts stood in the name of Altaf-ur-Rehman and that rent had been regularly deposited by him in M.R.C. No. 1311/2005. No credible material was produced to establish an independent tenancy or any privity of contract between the petitioner and the landlord. The appellate court therefore upheld the findings of the learned Rent Controller as being based on proper appreciation of the evidence and free from any jurisdictional defect or misapplication of law.

7. This Court has examined the record and finds that the petitioner has failed to substantiate her allegations of fraud, collusion, or manipulation of the rent receipts. The documents on file consistently show Altaf-ur-Rehman as the tenant, and no evidence has been adduced to demonstrate any forgery or tampering of the receipts relied upon before the Rent Controller. The concurrent findings of both fora below are thus borne out by the record and disclose no misreading or non-reading of evidence that could render their conclusions vulnerable to interference.

8. It is a well-settled principle that the jurisdiction of this Court under Article 199 of the Constitution of Pakistan is supervisory in nature and not appellate. The High Court does not reappraise evidence or substitute its own findings for those recorded by the competent fora below unless the impugned orders suffer from a jurisdictional defect, manifest illegality, or perversity resulting in miscarriage of justice. As observed in *Chairman NAB v. Muhammad Usman & others* (PLD 2018 SC 28), while the powers of judicial review are indeed a great instrument in the hands of a judge, they shall not be exercised where the subordinate court or tribunal has fairly and justly exercised its discretion without violating statutory provisions. Similarly, in *Amjad Khan v. Muhammad Irshad* (2020 SCMR 2155) it was held that interference is justified only when an order is passed without jurisdiction, based on misreading or non-reading of evidence, or otherwise contrary to law; mere difference of opinion does not warrant intervention. More recently, in *M. Hamad Hassan v. Mst. Isma Bukhari* (2023 SCMR 1434), the Supreme Court reaffirmed that the right of appeal is a statutory creation, and where no further appeal lies, the appellate court's findings on facts attain finality.

In the present case, no such defect or illegality has been demonstrated. The impugned orders reflect proper appreciation of law and evidence/material and disclose no misreading or non-reading warranting interference in constitutional jurisdiction.

9. In view of the foregoing, this Court is of the considered opinion that both the learned Rent Controller and the Appellate Court exercised jurisdiction properly and in accordance with law. Their findings are supported by the record and consistent with the settled principles governing proceedings under Section 12(2), C.P.C. The petition, being devoid of merit, is accordingly dismissed.

JUDGE