

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
C.P. No.S-608 of 2025  
(Haroon Rasheed versus Abdul Rahim & others)

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| Date | Order with signature of Judge |
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Date of hearing and order:- 02.02.2026

Mr. Shahzad Afzal advocate for the Petitioner  
Mr. Naeem Suleman advocate for Respondent Nos.1 to 3  
Mr. Ali Safdar Depar AAG  
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**ORDER**

**Adnan-ul-Karim Memon, J.** – The petitioner Haroon Rasheed has filed the captioned Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer.

- a. *Judgment dated 24.05.2025 & 10.03.2025 passed by the learned respondent No. 4 & 5 in Rent case No. 602/2023 and First Rent Appeal No. 86/2025 are incompetent without lawful authority without apply the judicial mind and of no legal effect, hence liable to be set aside and accordingly thereafter perusal of its illegality and misreading of facts set aside and remand back the case.*

2. The petitioner, being aggrieved by and dissatisfied with the impugned order dated 24.05.2025, passed by the learned Appellate 12<sup>th</sup> Additional District & Sessions Judge, Karachi South, in F.R.A. No.86 of 2025, whereby the order dated 10.03.2025 of the learned XII-Rent Controller, South Karachi, in Rent Case No. 602 of 2023 was maintained.

3. It is the case of the petitioner that the respondents filed Rent Case No.602/2023 for the fixation of fair rent under Section 8 of the SRPO, 1979, claiming ownership of the property on Plot No.48, M.N. Deed Building, Thattai Compound, M.A. Jinnah Road, Karachi, as legal heirs of the late Muhammad Nabiuddin. The petitioner is the tenant of shops Nos.11, 12 & 13 measuring approximately 297 sq. ft., paying a monthly rent of Rs.13,195/- under protest, while the respondents claimed rent of Rs.1,18,800/- per month from 01.01.2020. The petitioner resisted the rent application, denying the area measurement, the prevailing market rent, and the allegation of default. It was further submitted that the building is old, lacks basic facilities, and that no supporting documents regarding taxes or fair rent were produced by the respondents. Evidence was exchanged and cross-examined by both parties. The learned Rent Controller framed points for determination, including the maintainability of the application and the fair rent. The Rent Controller allowed the application, and the Appellate Court upheld the decision, enhancing the rent without proper consideration of the petitioner's objections.

4. Learned counsel for the petitioner submits that the Special Power of Attorney relied upon by the respondents is defective, used unlawfully in two rent cases, executed without witnesses or notarization, and, therefore, inadmissible. The learned Rent Controller and Appellate Court erred in ignoring the old condition of the premises, lack of basic amenities, and location, which should have been considered in determining fair rent. The respondents failed to produce any evidence, such as income tax returns or rent receipts, to justify the enhancement. The Courts misread and ignored evidence, acted on surmises, and prevented the petitioner from proving prevailing rent through comparable premises. The appellate Court enhanced the rent on a cross-objection without proper consideration of evidence, thereby committing illegality. He lastly prayed to: call for the record of F.R.A. No.86 of 2025 and Rent Case No.602/2023, declare the judgments dated 24.05.2025 and 10.03.2025 as without lawful authority, based on a misreading of facts, and set them aside, by allowing the petition.

5. The learned counsel for the respondents raised the question of the maintainability of the petition and submitted that the respondents' Special Power of Attorney (SPA) is duly executed and legally valid. It was prepared in accordance with the law and is effective for representing the legal heirs in rent matters. Allegations of defect, lack of witnesses, or notarization are unsubstantiated, as the SPA was presented and admitted by the learned Courts without objection at trial. The same SPA has been relied upon consistently in multiple legal proceedings, which demonstrates its legitimacy. He argued that the learned Rent Controller and Appellate Court have duly considered the condition, age, and amenities of the property. The enhancement of rent was made after careful evaluation of the evidence, including the size of the premises, location, and prevailing market trends. The petitioner's claim regarding lack of amenities does not diminish the legal right of the property owners to claim fair rent under the SRPO, 1979. Learned counsel argued that the respondents produced sufficient evidence to justify the enhancement, including the ownership status, rent history, and market comparable. The petitioner's claim that no supporting documents were produced is incorrect; evidence was duly submitted, cross-examined, and evaluated by the Courts. The Courts' reliance on such evidence was both reasonable and legally sound. He submitted that the Rent Controller correctly applied Section 8 of the SRPO, 1979, to determine fair rent. The petitioner's objections were considered and addressed; however, the Courts rightly concluded that the proposed enhancement was justified based on prevailing market rates and the legal entitlement of the respondents. Enhancement on cross-objection is within the jurisdiction of the Appellate Court and does not constitute illegality. He argued that the petitioner was given ample opportunity to present evidence

regarding comparable rents and prevailing market rates. The Courts' assessment and rejection of unsubstantiated claims do not amount to denial of justice but reflect proper judicial evaluation. He emphasized that the judgments dated 10.03.2025 and 24.05.2025 are based on law and evidence. There is no merit in the petitioner's assertions of illegality, misreading of facts, or procedural impropriety. The petition lacks substance and may be dismissed with costs.

6. We have heard the learned counsel for the parties and perused the record with their assistance.

7. The First Rent Appeal No.86 of 2025 under Section 21 of the Sindh Rented Premises Ordinance, 1979 (SRPO-1979) was filed by the petitioner against the Rent Controller's judgment dated 10.03.2025 in Rent Case No.602/2023, which fixed the fair rent of shops No.11, 12 & 13 (total 297 sq. ft.) at Rs.90,000/- per month. An excerpt of order dated 24.5.2025 passed in the aforesaid First Rent Appeal is reproduced as under: -

**"Point # 1**

12. *I have carefully analyzed the impugned judgment dated 10-03-2025 in juxtaposition with the evidence adduced and considered the arguments advanced by the learned Advocates for the Appellant and Respondents.*

13. *The learned rent controller vide judgment dated 10-03-2025 has determined the fair rent @ Rs.90,000/- per month in respect of the premises i.e. shop No.11, 12 and 13 (merged together) admeasuring 297 sq. ft. The demised premises was/is in occupation of the appellant since decades and appellant has been paying rent @ Rs.13,195/-, per month, of-course with gradual increment in the rent @ 10%. The respondents claimed that prevalent rate of rent in the as well as in the locality of the similar premises is Rs.400/- to Rs.500/-her sq. ft., per month, and similar premises in the locality fetch rent amount of Rs.120,000/- to Rs.150,000/-, per month, depending upon location of the premises. The respondents also claimed that the government has imposed Various taxes since inception of the tenancy and the same have been increased manifold, hence, had prayed for fair rent @ Rs.148,500/- with enhancement @ Rs.10% per annum, as provided under Section 8 of the SRPO 1979.*

14. *The appellant denied that the area of the demised premises is 297 sq. ft. and also contested the prevailing rent of Rs. 400 to Rs. 500 per sq. ft. as claimed by the respondents. The appellant asserted that the respondents failed to provide details of the taxes that have been imposed or increased. The appellant also claimed that the premises in question are located in a very congested and old building that lacks basic amenities, therefore the appellant prayed for the dismissal of the application under Section 8 of the SPRO-1979.*

15. *Scanning shows that learned Rent Controller after recording pro & contra evidence allowed application under Section 8 of SRPO-1979 filed by the Respondents and fixed the fair rent @ Rs.90,000/- per month vide impugned judgment dated 10-03-2025, which is impugned by the Appellant in appeal under Section 21 of SRPO-1979 and rate of fair rent is also challenged by the Respondents in cross objection.*

16. *Admittedly, the appellant is paying rent of Rs. 13,195/- per month for the demised premises. Naturally, at the inception of the tenancy, the rate of rent was not the same; rather, it was increased by 10% per annum gradually. The Respondents, in their application under*

Section 8 of the SRPO-1979, have claimed a rate of Rs. 500/- per square foot, which totals Rs. 1,48,500/-. The Respondents, in their cross-objections, have also sought enhancement of the fair rent determined by the learned Rent Controller from Rs. 90,000/- per month to Rs. 1,48,500/- per month. The Appellant, though disputing the prevalent rate of rent in the same building or locality, has had the scrutiny of the cross-examination of the Respondents show that the Advocate for the Appellant put a suggestion to the Respondent's attorney during cross-examination, indicating that tenants of shops No. 1, 3, and 4 are paying a monthly rent of Rs. 120,000 each. This suggestion from the Appellant's counsel indicates that the tenants of the adjacent shops are paying significantly more rent compared to the Rs. 13,195/- being paid by the Appellant in respect of the demised premises. Examination further shows that the Appellant conceded during his own cross-examination and voluntarily disclosed that the rent for another shop located in the same building is Rs. 70,000/- per month. In this context, it would be pertinent to mention that the Appellant claimed that the rent for another shop in the same building is Rs. 70,000/- per month, but he did not specify the area of the said shop which is fetching rent of Rs. 70,000/-, thus, it is established and proven that the prevalent rate of rent in the same building, as well as in the surrounding locality, is not Rs. 13,195/-, rather it is different and much higher than the amount being paid by the Appellant.

17. Apart from the above, the Respondents have also exhibited an order dated 31-01-2018, passed in rent case No. 514 of 2013, wherein the fair rent was determined by the Rent Controller to be Rs. 500,000/- per month for an area of 1,200 sq. ft., situated in the Masood Chamber adjacent to the demised shop. This amounts to over Rs. 400/- per square foot per month. Thus, not only is the rent of Rs. 13,195/- being paid by the Appellant to the Respondents, is unjustified and meager, but the fair rent of Rs. 90,000/- per month, determined by the learned Rent Controller, is below the rent prevalent in the same building as well as in premises situated in the same locality.

18. In addition to the above, the Respondents have also pleaded and consistently deposed that taxes have been increased, and new taxes have been imposed by the Government from time to time, with sales tax imposed at 14%. Indeed, no proof of taxes has been statistically established; however, the rise in the cost of construction, repair charges, taxes, etc., has increased, and labor charges have also been enhanced and this factors under the established law need not be proved through documentary evidence and cannot be ignored while determining the fair rent. The latest precedent of the Hon'ble Supreme Court of Pakistan, on this proposition is in the case of Akhtar Kamran (Deceased through legal heirs versus Pervaiz Ahmed and others [2023 SCMR 1147].

19. In view of the discussion, reasons, and case law cited hereinbefore, I am of the considered view that the learned Rent Controller has rightly concluded that the Respondents have proved the case for the determination of fair rent under Section 8 of the SRPO-1979 in the impugned judgment dated 10-03-2025-However, the rate of fair rent at Rs. 90,000/- is below the rate of rent prevalent in the same building as well as in premises situated in similar circumstances in the same locality. More-over, the learned Rent Controller has not taken into account other factors outlined in Section 8 of the SRPO-1979. Therefore, the judgment dated 10-03-2025 requires partial interference. Point # 1 is answered as "Accordingly".

### **Point # 2**

20. For the reasons discussed hereinabove, appeal under Section 21 of SRPO-1979 filed by the Appellant is dismissed, whereas, cross objections filed by the Respondents are partially allowed, as such, judgment dated 10-03-2025 is modified. Consequently, fair rent in respect of the demised premises is re-determined & fixed @ Rs. 400/- per square foot per month (as per actual area/measurement of the demised premises), with effect from date of filing of the application under Section 8 of SRPO-1979 with statutory enhancement under SRPO-1979. There is

*no order as to costs. R&P of Rent Case be returned to the Rent Controller for information & record.”*

8. It has been urged that the subject premises, part of the M.N. Deen Building, Karachi, are co-owned by the legal heirs of Muhammad Nabiuddin. The Petitioner, a long-term tenant, was paying Rs.13,195/- per month. The Respondents claimed that the prevailing market rent is Rs.400–500/- per sq. ft. (approximately Rs.120,000–150,000/- per month) due to taxes, inflation, and rising construction costs, seeking enhancement to Rs.148,500/- per month with statutory annual increments. The Petitioner challenged the validity of the respondents’ Power of Attorney, contended that the building is old, congested, and lacks basic amenities, disputed the area and prevailing rent, and argued that the Rent Controller ignored evidence and relevant case law. The Respondents, however, submitted evidence of prevailing rents in similar premises, arguing that market conditions justified an increased fair rent. Both parties produced affidavits, tenancy agreements, site plans, and precedent orders, and the Petitioner admitted that rents of other shops in the building range from Rs.70,000 to 120,000/-, supporting higher market rents. The Rent Controller correctly held that the Petitioner was liable to pay fair rent under Section 8 of the SRPO-1979, but the fixed rent of Rs.90,000/- was below the market rate. The Respondents’ claim of Rs.148,500/- was partially supported by evidence of prevailing rents, construction costs, and local conditions. The Appellate Court, therefore, dismissed the Appellant’s / Petitioner’s appeal and partially allowed the Respondents’ cross-objection, re-fixing the fair rent at Rs.400/- per sq. ft. per month (based on actual measurement), effective from the date of filing the Section 8 application, with statutory enhancement under the SRPO-1979.

9. Under Section 8 of the SRPO, 1979, the Rent Controller and appellate Court on appeal is legally mandated to determine “fair rent” by considering the four factors, Rent of similar premises in comparable circumstances and locality; rise in cost of construction and repair; imposition of new taxes after commencement of the tenancy; and Annual value for property tax purposes. The purpose of this provision is to ensure that fair rent reflects *current market conditions* and legitimate economic changes, not merely the historic rent agreed years or decades ago.

10. It is well-settled law that the appreciation of evidence by Courts is within Judicial discretion. In several reported decisions, Courts have upheld the broad discretionary power of the Rent Controller and appellate Court to fix fair rent after evaluating all evidence and submissions of the parties, including prevailing market rent and comparative rents in the vicinity. The Supreme Court has also dismissed a constitutional challenge to a fair-rent fixation order, noting that the Controller and appellate Courts properly evaluated relevant factors market rent, construction costs, taxes and there was no perversity in concurrent findings to

justify interference. It is well-settled that the presence of even *one relevant factor* under Section 8 can justify the fixation of fair rent, and the absence of all factors is not a requirement. It is sufficient that evidence on the rent of comparable premises or prevailing market conditions is placed before the Court.

11. The Petitioner's counsel submits that the Courts ignored the condition of the building, the lack of amenities, and failed to appreciate the evidence. However, the Courts are *not barred* from fixing fair rent even if the premises lack basic facilities, so long as evidence on rent in similar circumstances is considered. The question is one of *weight of evidence*, not admissibility, and Courts have the discretion to accept or reject evidence under SRPO proceedings.

12. Objections to the admitted Special Power of Attorney go to weight, not jurisdiction; the SPA was accepted by the Rent Controller at trial and appellate level without recorded objection on its face, hence cannot be re-litigated at this stage as a jurisdictional defect. The hyper-technical objections regarding admissibility of documents or procedural matters, in the absence of *patent illegality or jurisdictional error*, cannot justify interference with rent fixation orders passed in the exercise of judicial discretion. Besides, this Court vide order dated 02.2.2026, allowed the compromise between the parties in Constitutional Petition No. S-609 of 2025 in the following terms: -

*“The Petitioner, aggrieved by the judgments dated 10-03-2025 and 24-05-2025 in Rent Case No. 603 of 2023 and F.R.A. No. 87 of 2025 submitted that both courts committed illegality and misread evidence. It was submitted that the ejectment application was filed with mala fide intent to pressure the Petitioner for higher rent. It is also urged that the personal need was unsubstantiated, several nearby shops were vacant, and the Special Power of Attorney relied upon was defective and used in multiple cases. It is added that cross-examination denied its validity, and the prior conduct of the Respondents indicated ulterior motives.*

2. *At the initial stage, the Respondents' counsel opposed the petition, asserting bona fide personal need, lawful execution of the Power of Attorney, and proper evidence of the son's business. He argued withdrawal of previous cases and the use of the attorney in multiple cases were lawful, and the Petitioner failed to prove his case with regard to suitable premises. He added that both courts properly appreciated evidence, and no interference was/is warranted in constitution Petition.*

3. *After brief submissions made by the learned counsel for the parties, the parties have now reached a mutual understanding for the resolution of the matter amicably.*

4. *Accordingly, this petition is disposed of by consent with the directions that the Petitioner shall vacate the subject premises within four (4) months from the date of this order. However, during the intervening period, the Petitioner shall continue to pay the rent as agreed, without any default or delay. However, the*

*issue of fair rent shall be decided independently in CP No.608 of 2025 on merits. Upon compliance with the above terms, no further proceedings shall remain pending in respect of Rent Case No. 603 of 2023 and F.R.A. No. 87 of 2025.*

5. *The parties are directed to act in accordance with this order and ensure peaceful compliance.”*

13. As such the objection is not worth consideration at this stage, besides the remedies of enhancement of rent and ejectment of the tenant could be availed by the landlord simultaneously. On the aforesaid proposition, I am guided by the decision of the Supreme Court in the case of Major (Retd.) Ahsan-ul-Haque v. Muhammad Ejaz (2011 SCMR 487).

14. Enhancement on cross-objection is within law and jurisdiction enhancement of fair rent on a cross-objection by Respondents is expressly contemplated under the SRPO framework and the appellate Court is empowered to re-fix fair rent upon hearing both parties. There is no legal bar to appellate Courts adjusting fair rent upward if supported by evidence. Concurrent findings on re-fixation of fair rent cannot be disturbed unless shown to be *arbitrary, capricious, or perverse*, which the record does not demonstrate.

15. The principle of *concurrent findings* applies where both the trial and appellate Courts have reached a similar conclusion on fair rent after evaluating the evidence. The Supreme Court has repeatedly held that such concurrent factual findings should not be interfered with unless shown to be wholly unjustified.

16. On the facts and law, the learned Rent Controller and the Appellate Court acted within the statutory scheme of Section 8, SRPO, 1979. Their consideration of prevailing market rent, evidence of comparable premises, and evaluation of costs and taxes was a lawful exercise of judicial discretion. The Petitioner's objections regarding the age and condition of the premises go to the *weight* of evidence, not to *jurisdiction* or *legal validity* of the fixation order. Enhancement of fair rent on cross-objection, and refusal to accept unsubstantiated comparisons offered by the tenant, do not amount to misreading of facts or illegal exercise of discretion. On established rent jurisprudence, concurrent findings affirmed on appeal deserve deference absent clear legal error. Therefore, the impugned orders dated 10.03.2025 and 24.05.2025 are legally sustainable, factually supported, and do not exhibit any jurisdictional error, perversity, or misapplication of law warranting interference. The petition seeking to set aside these judgments lacks merit and is dismissed along with pending application(s).

JUDGE

