

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. S-112 of 2026
(*Sarfarazuddin versus Homi D. Ghadially & others*)

Date	Order with signature of Judge
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Date of hearing and order:- 02.2.2026

Mr. Muhammad Kamran Mirza advocate for the petitioner

ORDER

Adnan-ul-Karim Memon, J. – Petitioner Sarfarazuddin has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- a) Set aside the impugned order dated 28.1.2026 passed by Respondent No.2 in FRA No.11/2026.;*
- b) Set aside the order dated 12.1.2026 passed by the Rent Controller in Execution No.20 of 2022;*
- c) Remand the matter to the Rent Controller with directions to decide objections under Section 22 SRPO strictly in accordance with law;*
- d) Suspend execution proceedings pending the decision of this petition;*

2. The petitioner is aggrieved by the judgment dated 28-01-2026 passed by Respondent No.2, XIITH Additional District & Sessions Judge, Karachi South, in First Rent Appeal No. 11 of 2026, whereby the appeal was dismissed and the execution of the ejectment order was upheld. Similarly, the order dated 12-01-2026 passed by the Xth Rent Controller, Karachi South, in Rent Execution No. 20 of 2022 is also challenged.

3. Learned counsel for the petitioner submitted that the impugned orders are perverse, legally flawed, non-speaking, and arbitrary, and result in the petitioner being deprived of property without due process. It is submitted that both courts below failed to exercise the jurisdiction vested in them by law. He submitted that Section 22 of the SRPO, 1979, mandates the determination of objections relating to execution, discharge, and satisfaction, which was unlawfully declined by the executing and appellate courts. He added that there is no default of payment of rent, yet the petitioner has been technically ousted, and the appellate court treated execution as a mere ministerial act, contrary to settled rent law jurisprudence. It is submitted that the refusal to adjudicate statutory objections amounts to a denial of due process under Articles 4 & 10-A of the Constitution. He prayed to allow the petition.

4. I have heard the learned counsel for the petitioner on the maintainability of the petition and perused the material available on record with his assistance.

5. I have noticed that the petitioner filed First Rent Appeal, under Sections 21 & 22 of the Sindh Rented Premises Ordinance, 1979, calling in question the order dated 12.01.2026 passed by the learned Xth Rent Controller, Karachi South, in Rent Execution No. 20 of 2022, which was dismissed vide impugned judgment.

6. Briefly, the respondent/landlord had filed an ejectment application against the petitioner/tenant, which was allowed vide order dated 21.07.2022 after the defence of the petitioner was struck off under Section 16(2) of the Ordinance. The said order attained finality, having been upheld successively by the appellate Court, this Court, and the Hon'ble Supreme Court of Pakistan. Thereafter, during execution proceedings, the petitioner filed an application under Section 22 of the Ordinance read with Section 151 CPC, which was dismissed by the executing court through the impugned order.

7. At this stage learned counsel for the petitioner contended that the executing court failed to determine the issue of default as required under Section 22 of the Ordinance. It appears from the record that the ejectment order dated 21.07.2022 has attained finality up to the Supreme Court. It is a settled principle of law that an executing court cannot go behind the final order or decree and its jurisdiction under Section 22 of the Ordinance is confined only to matters relating to execution, discharge, or satisfaction. The executing court was not empowered to re-examine the issue of default already concluded in the main proceedings.

8. The contention of the petitioner that refusal to adjudicate objections under Section 22 of the Ordinance amounts to denial of due process is misconceived. Due process is satisfied when a party is afforded full opportunity to contest the matter at the trial and appellate stages, which, in the present case, was availed by the petitioner up to the Hon'ble Supreme Court. The execution of a final order cannot be stalled on grounds already adjudicated and conclusively determined.

9. Consequently, no perversity, illegality, or jurisdictional error is found in the orders passed by the executing court or the appellate court. The impugned orders reflect a correct appreciation of law and proper exercise of jurisdiction. Interference under constitutional jurisdiction is therefore unwarranted.

10. Accordingly, the petition is devoid of merit and is dismissed. The executing court shall proceed with execution strictly in accordance with law.

JUDGE