

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P No.S-115 of 2026

[Akbar Ali v. Mst.Kulsoom Khatoon and another]

Petitioner : Akbar Ali s/o Ali Bakhsh
Through Mr.Muhammad Hassan Chang,
Advocate

Respondent No.1 : Mst.Kulsoom Khatoon w/o Ashique Hussain.
Nemo

Respondent No.2 : Province of Sindh. Nemo

Date of hearing : **13.02.2026**

Date of Decision : **13.02.2026**

JUDGMENT

ARBAB ALI HAKRO, J.- The petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution, calling into question the legality, propriety and correctness of the judgment dated 03.02.2026¹, as well as the judgment dated 04.10.2025, passed by². Through the impugned judgments, the petitioner has been directed to vacate Shops No.2 and 4³ ("demised shops"), on the ground of personal bona fide need of respondent No.1.

2. The essential factual matrix, as can be gathered from the record, is that respondent No.1 instituted Rent Application No.65 of 2022 under Section 15 of the Sindh Rented Premises Ordinance, 1979, seeking eviction of the petitioner from the demised shops on the assertion that he was tenant since 2009 and that the premises were required for the personal bona fide use of her son Haider Ali. The rent application was supported by a series of rent agreements spanning from 2009 to 2022, including the last alleged tenancy agreement dated 11.01.2022, as well as a legal notice issued to the petitioner. These

¹ rendered by the learned 5th Additional District Judge, Hyderabad, in First Rent Appeal No.58 of 2025

² the learned Rent Controller-II, Hyderabad, in Rent Application No.65 of 2022

³ constructed in House No.186/C, Unit No.11, Latifabad, Hyderabad

documents were produced in evidence before the Rent Controller, along with the testimony of the respondent's attorney and an attesting witness.

3. The petitioner, however, took a categorical stance that he was never a tenant of respondent No.1. His case was that the demised shops had been sold to him by respondent No.1 through a sale agreement dated 20.09.2021 for a total consideration of Rs.38,00,000/-, which he claimed to have fully paid. He asserted that possession was delivered to him as a purchaser and that respondent No.1 subsequently avoided execution of a registered sale deed, compelling him to file F.C. Suit No.1234 of 2022 for specific performance, which is pending adjudication. He further alleged that the rent agreements relied upon by respondent No.1 were forged, fabricated and antedated, bearing signatures and handwriting that did not belong to him. He also challenged the authority of the attorney who instituted the rent proceedings, asserting that the power of attorney did not specifically authorise the initiation of ejectment proceedings in respect of the suit property.

4. Learned Rent Controller, after recording evidence of both sides, accepted the plea of respondent No.1 and ordered eviction on the ground that the relationship of landlady and tenant stood proved and that the premises were required for the personal bona fide need of her son. The appellate Court, upon reappraisal of the material, concurred with the findings of the Rent Controller and dismissed the appeal, holding inter alia that pendency of a suit for specific performance did not bar ejectment proceedings and that the petitioner, having admitted respondent No.1's ownership, could not resist eviction without first vacating the premises. The appellate judgment records that the respondent No.1 has proved her claim that she is/was the landlady, while the appellant is the tenant of the demised shops and that the petitioner had not produced any decree or title document in support of his claim of purchase.

5. Learned counsel for the petitioner argued that both courts below failed to appreciate that the core dispute between the parties pertained to title, which could not be adjudicated in summary rent proceedings. He submitted that once

the petitioner had set up a plea of purchase and had already instituted a civil suit for specific performance, the Rent Controller was bound to stay his hands until the civil Court determined the question of ownership. It is contended that the rent agreements produced by respondent No.1 were forged and fabricated, bearing inconsistent signatures and lacking thumb impressions and that reliance on such disputed documents without forensic examination amounted to a grave miscarriage of justice. Learned counsel further argued that the power of attorney relied upon by respondent No.1's attorney did not specifically authorise the institution of rent proceedings, rendering the entire ejectment case *coram non judice*. He maintained that the finding of personal bona fide need was perverse, unsupported by evidence and recorded in disregard of the petitioner's lawful possession as a purchaser.

6. I have heard learned counsel for the petitioner at considerable length and have carefully examined the impugned judgments and the material placed on record.

7. The petitioner has assailed the concurrent findings of the Rent Controller and the appellate Court primarily on the grounds that the question of title was wrongly ignored, that the rent agreements were forged, that the attorney lacked authority and that the plea of personal bona fide need was accepted without proper scrutiny.

8. The first and central question is whether the Rent Controller and the appellate Court exceeded their jurisdiction by proceeding with the ejectment application despite the petitioner's plea of purchase and pendency of a suit for specific performance. The appellate judgment dated 03.02.2026 records that the petitioner admitted respondent No.1's ownership of the demised shops and that he had not produced any decree or title document in his favour. The appellate Court further observed that the suit for specific performance was instituted after the filing of the rent case and that the mere pendency of such a suit did not bar the Rent Controller from proceeding with the ejectment application. The appellate Court relied upon the principle that a tenant who

claims to have purchased the premises must first vacate the property and then pursue his claim before the civil Court. This principle is not only well-established but has been reaffirmed in the recent judgment of the Supreme Court in the case of **Salahuddin Ahmed**⁴, wherein it has been held that if a tenant denies the proprietary rights of the landlord on the basis of an agreement to sell, he is bound first to deliver possession and thereafter contest his claim before the competent civil Court. The Supreme Court further held that in the absence of evidence rebutting the landlord's title, a strong presumption of tenancy exists. The appellate Court's reliance on this principle is evident from its observation that "*the respondent No.1 has proved her claim that she is/was landlady, while the appellant is tenant of demised shops*" and that the petitioner had not produced any decree in his favour. These findings are borne out by the record and are consistent with the law declared by the Supreme Court.

9. The petitioner's contention that the Rent Controller was bound to stay proceedings due to the pendency of the civil suit is therefore untenable. The jurisdiction of the Rent Controller is not ousted merely because a tenant sets up a plea of purchase. The Supreme Court, in the case of **Salahuddin Ahmed** (supra), has categorically held that such a plea does not defeat the landlord's right to seek eviction, nor does it suspend the statutory process. The Rent Controller is not required to adjudicate on title; he is only required to determine whether the relationship of landlord and tenant exists and whether the grounds for eviction are established. The appellate Court correctly noted that the petitioner had admitted respondent No.1's ownership and had failed to produce any title document. In these circumstances, the courts below acted within their jurisdiction in proceeding with the rent case.

10. The second limb of the petitioner's challenge pertains to the alleged fabrication of rent agreements. The petitioner asserts that the signatures on the rent agreements vary from document to document; that he signs in Urdu, whereas the agreements bear English signatures; and that the documents are

⁴ *Salahuddin Ahmed v. Khurram Sultan Abbasi* (2025 SCMR 1691)

antedated and forged. However, the record reveals that respondent No.1 produced a complete chain of original rent agreements from 2009 to 2022, supported by the testimony of her attorney and an attesting witness. The Rent Controller, who had the advantage of observing the demeanour of the witnesses, found their testimony credible. The appellate Court, upon reappraisal, concurred with this assessment. The petitioner, on the other hand, produced only photocopies of the alleged sale agreement and receipts, along with an NC report regarding the misplacement of the documents. The appellate Court noted that the petitioner had not produced any original title document or decree. The allegation of forgery, being a serious charge, required cogent evidence, which the petitioner failed to furnish. The Rent Controller is not a forensic tribunal, and unless the documents appear inherently suspicious or are disproved by reliable evidence, he is entitled to rely upon them. The findings of both courts below on this issue do not appear to be perverse or contrary to the record.

11. The third contention relates to the authority of the attorney who instituted the rent proceedings. The petitioner argues that the power of attorney did not specifically authorise the filing of an ejectment application. The appellate judgment, however, records that the attorney produced the power of attorney in evidence and was cross-examined. The Rent Controller accepted the document as valid. The petitioner did not produce any evidence to show that the attorney lacked authority or that the power of attorney was defective. The question whether a power of attorney is sufficiently worded to authorise litigation is a mixed question of fact and law. Unless the document is patently deficient, the Rent Controller's acceptance of it cannot be interfered with in constitutional jurisdiction. The petitioner has not demonstrated that the courts below committed any jurisdictional error in this regard.

12. The fourth and final issue concerns the finding of personal bona fide need. The appellate Judgment records that the respondent's son, Haider Ali, deposed that he was unemployed and required the shops to start his own business. The attesting witness supported this claim. The petitioner did not

produce any evidence to rebut the assertion of bona fide need. The Supreme Court in *Salahuddin Ahmed* (supra) reiterated that personal bona fide need is a sufficient ground for eviction and that the landlord is the best judge of his own requirements. The Supreme Court further held that the landlord is under no obligation to act on the tenant's dictation regarding the suitability of the premises. The Rent Controller and the Appellate Court applied this principle and found that the need was genuine. These findings are supported by evidence and are in consonance with the law.

13. In the exercise of jurisdiction under Article 199, this Court does not act as a Court of appeal. It does not re-appraise evidence unless the findings are perverse, arbitrary or based on misreading or non-reading of material evidence. The concurrent findings of the courts below are based on proper appreciation of evidence, supported by statutory provisions and fortified by binding precedent. No jurisdictional defect, illegality, or perversity has been demonstrated. The petitioner seeks to convert this constitutional petition into a third round of factual re-assessment, which is impermissible.

14. For the foregoing reasons, the petitioner has failed to make out a case for interference under Article 199 of the Constitution. The petition is accordingly **dismissed**. Resultantly, the impugned judgments dated 04.10.2025 and 03.02.2026 do not suffer from any legal infirmity warranting interference in constitutional jurisdiction.

JUDGE

AHSAN K. ABRO