

Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI

C.P. No.S-399 of 2025

[Abid Ali v. Danish Khan and others]

Petitioner	Through Mr. M. Yousuf Chohan, Advocate.
Date of Hearing:	15.10.2025.
Date of Order:	15.10.2025.

ARSHAD HUSSAIN KHAN, J.- Through instant constitutional petition, the petitioner has challenged the order dated **24.03.2025**, passed by learned XIII-Additional District Judge, Karachi [East] in First Rent Appeal No.195 of 2024, whereby the appeal was dismissed and the ejectment order dated **27.08.2024**, passed by the learned XII- Rent Controller, Karachi (East) in Rent Case No.250 of 2023, filed by respondent No.1, was maintained. Both the said orders collectively shall hereinafter be referred to as the “**impugned orders**”.

2. **Briefly**, the facts giving rise to the present constitutional petition are that the respondents/applicants, being owners of Shop No.6, Gulzar Madina Market, Korangi, Karachi, through a registered gift deed executed by their mother, Mst. Gulzar Begum, filed an ejectment application under Section 15 of the Sindh Rented Premises Ordinance, 1979, seeking eviction of the petitioner/opponent on the grounds of default in payment of rent and personal bona fide need. They asserted that the opponent had willfully defaulted in payment of rent since January 2023, and that being unemployed and without ownership of any other property, they required the demised premises for their personal use.

In response, the petitioner/opponent filed a written statement denying the existence of any landlord-tenant relationship, asserting that the applicants’ mother, Mst. Gulzar Begum, was the actual owner and that he had obtained the demised premises from her in the year 1985 on *Pugri* basis for Rs.100,000/-, against a monthly maintenance of Rs.150/-, later increased to Rs.3,900/-. He contended that upon refusal of rent by the applicants, he began depositing the same in MRC No.31 of 2023, thus committed no default. He further alleged that the applicants already own multiple residential properties in the same vicinity, rendering their plea of personal *bona fide* need false and *mala fide*. He, therefore, maintained that the ejectment application was not maintainable and liable to be dismissed with costs.

3. The learned Rent Controller thereafter framed the issues, recorded evidence from both sides, and upon conclusion of the proceedings, allowed the ejectment application and the petitioner/opponent was directed to vacate the

demised premises within sixty (60) days from the date of the impugned order i.e. **27.08.2024**.

Against the aforesaid order of the learned Rent Controller, the petitioner/opponent has filed First Rent Appeal No.195 /2024, which was dismissed by XIIIth Additional District Judge, Karachi [East] through order dated **24.03.2025**. The petitioner herein filed instant petition against the concurrent findings of the two courts below.

4. **Learned counsel for the petitioner has argued** that the impugned orders of both the courts below are erroneous in law and fact and thus liable to be set aside. He has contended that the courts have failed to properly appreciate the evidence and misread material facts, leading to findings contrary to law. He has further contended that the petitioner was a lawful tenant of Mst. Gulzar Begum, the original owner, and was never informed of any change in ownership or required to execute a fresh tenancy agreement with the respondents. The shop, obtained on *Pugri* in the year 1987-88, was never rented out under any arrangement with the respondents, who therefore failed to establish a landlord-tenant relationship, rendering the ejectment application under Section 15 of the Sindh Rented Premises Ordinance, 1979 not maintainable. It is argued that the plea of personal *bona fide* need was unfounded as the respondents neither proved unemployment nor lack of alternative accommodation. He has maintained that the rent was paid to Mst. Gulzar Begum up to December 2022 and thereafter deposited in MRC No. 31 of 2023, hence no willful default was committed. Lastly, he has asserted that the impugned orders are perverse, unjust and warranting interference under constitutional jurisdiction.

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

From perusal of the record, it transpires that the Learned Rent Controller after framing the requisite issues and conducting a thorough appraisal of the evidence on the record, rendered categorical findings to the effect that: (i) the relationship of landlord and tenant exists between the parties; (ii) the applicant has successfully demonstrated that he requires the subject premises for his *bona fide* personal need; (iii) the opponent is in default in payment of rent to the applicant and (iv) the respondents/applicants have successfully established their case through both oral and documentary evidence. Consequently, the eviction application filed by the applicants was allowed.

6. As regards the petitioner's principal plea denying the existence of a jural relationship, the record reflects that although such denial was taken in the

written statement, but the petitioner's own cross-examination contradicts this stance. He categorically admitted that he was paying rent to the respondents and that the rent had been increased by them in January 2022 to Rs.5,000/- per month. These clear admissions conclusively establish that the petitioner recognized the respondents as his landlord, thereby affirming the existence of a lawful landlord-tenant relationship.

Furthermore, the respondents produced a registered *Declaration of Oral Gift* dated 21.11.2014, executed by Mst. Gulzar Begum in their favour, thereby lawfully transferring ownership of the demised premises to them. The execution and validity of the said declaration were never disputed through any independent challenge or evidence, thus confirming that the ownership had effectively passed to the respondents. Once ownership stood transferred through a registered instrument, the respondents rightly assumed the status of landlords. Even if no notice under Section 18 of the Sindh Rented Premises Ordinance, 1979, was served upon the petitioner, it is a settled principle that the filing of an ejectment application itself constitutes sufficient notice for the purposes of the said provision. The petitioner's own acknowledgment of paying rent to the respondents further demonstrates his knowledge of the transfer, thereby fulfilling the object underlying Section 18. In this regard, reliance may be placed on *Messrs Sunita v. Messrs Building Hardware Stores through Partner* [PLD 1996 Karachi 526]. The plea of *Pugri* arrangement was neither substantiated through any documentary evidence nor supported by the testimony of any independent witness; hence, the relationship of landlord and tenant was rightly found to exist.

7. With respect to the ground of **default in payment of rent**, the record reflects that the petitioner failed to pay rent to the respondents from January 2023 onwards despite admitting during cross-examination that the rent had been increased to Rs.5,000/- per month in the month of January 2022. The plea that rent was being deposited in MRC No.31 of 2023 in favour of Mst. Gulzar Begum is of no legal consequence, as she had already divested herself of ownership through the registered gift deed executed in the year 2014. Once the ownership had been lawfully transferred, payment or deposit of rent in the name of a former owner does not absolve the tenant of default. Accordingly, both the learned Rent Controller and the Appellate Court rightly held that the petitioner had committed willful default in payment of the rent.

8. As regards the ground of **personal bona fide need**, the respondents specifically pleaded and testified that they were unemployed and required the demised premises to establish their own business and earn a livelihood. The petitioner failed to place on the record any credible evidence to demonstrate that the respondents were in possession of any other suitable accommodation

or alternative means of income. The bald assertion that the respondents owned other properties in the same locality remained unsubstantiated. The learned Rent Controller, upon proper appreciation of the evidence, held that the requirement of the respondents was genuine and *bona fide*, which finding was rightly affirmed by the Appellate Court through a well-reasoned judgment.

9. It is a well-settled principle that the constitutional jurisdiction of this Court under Article 199 of the Constitution of Pakistan is supervisory and not appellate. The High Court does not re-appraise evidence or substitute its own findings for those concurrently recorded by the courts below unless there is a lack of jurisdiction, manifest illegality, or perversity resulting in miscarriage of justice. The Supreme Court in the case of **M. Hamad Hassan v. Mst. Isma Bukhari** [2023 SCMR 1434] has emphasized that the right to appeal is a statutory creation and in the absence of a second appeal, the appellate court's decision is final on facts.

10. Applying the foregoing principles to the present case, this Court finds that no ground for interference is made out as the concurrent findings of the courts below are based on proper appreciation of evidence. Consequently, this constitutional petition, being devoid of merit, is dismissed in limine.

JUDGE

Jamil*