

IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No. D-2292 of 2020

Present:

Mr. Justice Riazat Ali Sahar

Mr. Justice Ali Haider 'Ada'

[Muhammad Dawood Khan Vs. Government of Sindh & others]

Date of hearing	:	<u>23.10.2026</u>
Date of decision	:	<u>23.10.2026</u>
Petitioner	:	Through Mr. Ahmed Ali Hussain, Advocate.
Respondent No.1	:	Through Mr. Ali Safdar Depar, A.A.G., Sindh.
Respondent No.2	:	Through Mr. Yar Muhammad, A.A.G., Sindh.

ORDER

RIAZAT ALI SAHAR, J. Through the instant Constitutional Petition, the Petitioner seeks a declaration that the alleged attempts of Respondent No. 2, Sindh Road Transport Corporation (SRTC), to forcibly dispossess him from Plot No. S/23, Gulbai Depot, near Baldia Local Railway Station, Mauripur Road, Karachi (hereinafter referred to as the “subject premises”), are illegal, unlawful and arbitrary. The Petitioner further seeks a declaration recognizing his status as a statutory tenant and a direction restraining the Respondents, their officers, agents and representatives from harassing or dispossessing him from the subject premises except in accordance with law.

2. Briefly, the case of the Petitioner is that the subject premises were initially leased out to him by Respondent No. 2 through a lease agreement dated 03.08.1980 for a period of one year, followed by another lease deed dated 17.08.1981. It is contended that the Petitioner incurred substantial expenditure on improvements and renovations of the premises and deposited an amount of Rs.30,000/- as security. According to the Petitioner, when Respondent No. 2 refused to accept rent in the year 1982, he instituted Suit No. 2958/1982, wherein an order maintaining status quo was passed on 31.07.1982, which was subsequently confirmed on 11.10.1982. Thereafter, Respondent No. 2 initiated ejectment proceedings against the Petitioner on the grounds of default in

payment of rent, unlawful subletting, material alterations and bona fide personal requirement. However, the said proceedings were dismissed by the learned Rent Controller through judgment dated 30.03.1989. The appeal preferred by Respondent No. 2 was also dismissed by the learned Additional District Judge, Karachi West. It is asserted that the appellate judgment attained finality and that the Petitioner has regularly been depositing monthly rent before the competent Rent Controller. The grievance of the Petitioner is that Respondent No. 2 has recently started threatening him with forcible dispossession through private persons, allegedly with the intention of letting out the subject premises to a third party at a higher rate of rent.

3. Conversely, learned counsel appearing on behalf of Respondent No. 2/SRTC has filed comments and vehemently opposed the Petition. It is submitted that the operations of SRTC were discontinued in the year 1999 pursuant to an agreement executed between its employees and the Government of Sindh, whereby the liabilities of the Corporation were assumed by the Government of Sindh and its properties were to vest in the Government of Sindh for their lawful utilization. It is further contended that the subject premises were originally leased out for a limited period without public auction, competitive bidding or compliance with the prescribed legal procedure, and that the alleged lease was never approved or endorsed by the Government of Sindh. Learned counsel maintains that the subject premises constitute public property earmarked for amenity and transportation purposes and are required for public transport projects. In support of his submissions, reliance has been placed upon the directions issued by the Honourable Supreme Court of Pakistan, particularly the order dated 12.12.2018 concerning amenity plots, as well as the judgment reported as Province of Sindh through Chief Secretary and others v. Syed Kabir Bokhari (2016 SCMR 101). It is argued that the Petitioner cannot claim any vested or perpetual right to retain possession of public property for commercial purposes, particularly when the original lease period has long since expired. Learned counsel, therefore, prays for dismissal of the Petition.

4. Learned Assistant Advocate General, Sindh, has adopted the arguments advanced by learned counsel for Respondent No. 2 and has likewise prayed for dismissal of the instant Petition.

5. We have heard learned counsel for the parties at considerable length and carefully examined the material available on record in the light of the applicable law.

6. The record reveals that the subject premises were initially leased out to the Petitioner by Respondent No. 2 through an agreement dated 03.08.1980 at a monthly rent of Rs.5,000/- for a period of one year. It is also an admitted position that the premises originally belonged to the now-defunct SRTC. Subsequently, Respondent No. 2 instituted Rent Case No. 2881/1985 against the Petitioner, seeking his ejectment on the grounds of default in payment of rent and violation of the terms and conditions of the tenancy agreement. The said proceedings culminated in dismissal through judgment dated 30.03.1989 passed by the learned Rent Controller. Being dissatisfied, Respondent No. 2 preferred F.R.A. No. 402/1989, which was subsequently transferred to the Court of the learned Additional District Judge, Karachi West, and renumbered as F.R.A. No. 05/2001. The said appeal was also dismissed. Thus, the earlier ejectment proceedings admittedly did not result in an order directing eviction of the Petitioner.

7. However, the dismissal of the earlier ejectment proceedings cannot, by itself, be construed as conferring upon the Petitioner an absolute, perpetual or indefeasible right to remain in occupation of the subject premises. The legal effect of those decisions must necessarily be examined in the context of the grounds upon which the ejectment proceedings were instituted and decided. Such dismissal does not automatically establish that the original lease stood renewed indefinitely or that the Petitioner acquired any proprietary interest in the premises. Equally, the mere expiry of the contractual lease period does not, by itself, conclusively determine whether the Petitioner continues to enjoy protection under the applicable rent law. Any claim of statutory tenancy must be examined with reference to the relevant statutory provisions, the nature of the premises, the relationship between the parties and the material available on record.

8. In the present case, although the Petitioner has relied upon the earlier judgments of the Rent Controller and the appellate Court, he has not produced any subsequent lease agreement or renewal establishing the continuation of his contractual tenancy. More importantly, despite asserting that he has regularly deposited monthly rent before the competent Rent Controller, no satisfactory and complete documentary material has been placed before this Court to establish the current position regarding such deposits or the precise legal basis upon which he claims an enforceable right to continue occupying the subject premises. The mere assertion of statutory tenancy, without establishing the

necessary factual and legal foundation, is insufficient to justify the grant of the declarations sought in the instant proceedings.

9. Another material aspect of the matter is that the subject premises admittedly belonged to a public sector corporation, whose operations were discontinued in the year 1999. The Respondents have specifically questioned the legality of the original lease, alleging that the premises were let out without compliance with the prescribed procedure and that the property is reserved for public and transportation purposes. These assertions raise questions concerning the nature, status and lawful utilization of public property. Such questions cannot be conclusively determined merely on the basis of the Petitioner's previous occupation or the dismissal of ejectment proceedings instituted several decades ago. At the same time, the Respondents' assertions regarding the invalidity of the original lease and the public-purpose character of the property cannot be treated as conclusively established without examination by the competent forum in accordance with law.

10. It is well settled that the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, is discretionary and is ordinarily exercised for enforcement of an established legal or fundamental right. Where the controversy involves disputed questions of fact, the existence and extent of tenancy rights, the validity of a lease agreement and the legal status of the property, such matters are ordinarily required to be adjudicated by the competent forum under the relevant law. Constitutional jurisdiction cannot be invoked as a substitute for ordinary statutory remedies, particularly where the relief sought depends upon determination of disputed factual and contractual questions.

11. In the circumstances, the Petitioner has failed to establish a clear and presently enforceable legal right entitling him to the declaratory and injunctive relief sought through the instant Constitutional Petition. The previous dismissal of ejectment proceedings, though relevant to the history of the dispute, does not dispense with the requirement of establishing the Petitioner's present legal entitlement. Consequently, no case for interference in the exercise of constitutional jurisdiction under Article 199 of the Constitution has been made out.

12. For the foregoing reasons, the instant Constitutional Petition, being misconceived and not maintainable in its present form, is hereby **dismissed**,

along with all pending application(s), if any, with no order as to costs. However, it is clarified that observation made hereinabove shall not prejudice the rights of either party in such proceedings, which shall be decided independently on their own merits.

JUDGE

JUDGE

M.Khan