

HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

C.P No.S-493 of 2026

[Imran vs. Province of Sindh and Others]

Petitioner: By Mr. Muhammad Zakria advocate

Private respondent: By Mr. Imdad Ali Memon advocate

Official respondents By Mr. Allah Bachayo Soomro
Additional A.G S Sindh

Date of hearing & Decision 26.10.2026

O R D E R

ADNAN-UL-KARIM MEMON J:- The petitioner has challenged the common judgment dated 05.08.2026 passed by the District Judge, Matiari, in First Rent Appeals No. 01 & 02 of 2026, whereby the judgment dated 28.02.2026 passed by the Rent Controller, Hala, in Rent Application No. 16 of 2024 under Sections 14, 15 & 16(1) of the Sindh Rented Premises Ordinance, 1979, was maintained.

2. At the very outset, this court asked the counsel to address the maintainability of the petition against the concurrent decisions of two courts below. Learned counsel for the petitioner contends that the trial court proceeded *ex parte* against him without providing an opportunity of fair hearing, thereby violating the principles of natural justice and Article 10-A of the Constitution; that respondent No.5 deliberately furnished an incorrect address, resulting in non-service of summons and his being proceeded against *ex parte*. He further disputes the relationship of landlord-tenant. He claims that he has instituted F.C. Suit No. 21/2026 before the Senior Civil Judge, Hala, seeking declaration, cancellation, permanent and mandatory injunction against respondent No.5 and others. He maintains that both courts below failed to properly appreciate the evidence and material facts. At the same time, the appellate court also erred in declining to remand the matter for adjudication on merits. He further submits that during pendency of the rent appeals, execution proceedings were initiated in which he was also denied an opportunity to file objections vide order dated 15.08.2026. Accordingly, he seeks setting aside of both impugned judgments and remand of the matter to the Rent Controller for decision afresh after providing him an opportunity of hearing, along with suspension of the impugned judgments pending disposal of the petition.

3. Learned counsel for the respondent submitted that the appellate court, upon re-appraisal of oral and documentary evidence, held that the respondents had successfully established the relationship of landlord and tenant through rent agreements and money-order receipts. The petitioner's plea that the payments represented interest on a loan of Rs.1,50,000/- remained unsupported by any documentary evidence or independent witness. He submitted that the alleged irregularity in the notarization of rent agreements was

insufficient to invalidate them, while the petitioners' claim of ownership under the sale deed dated 25.04.1991 remained subject to adjudication in the pending civil suit. He added that the appellate court further found that the petitioner had been duly served with summons and notices and had knowledge of the rent proceedings as admitted in the suit proceedings; therefore, his plea of denial of fair opportunity was/is not established. He emphasized that there was no illegality, irregularity, or non-reading or misreading of evidence found in the impugned judgment dated 28.02.2026. Consequently, both rent appeals were rightly dismissed, with no order as to costs.

4. Heard learned counsel for the parties and perused the record with their assistance.

5. The principal questions requiring determination are whether the petitioner was duly served in the rent proceedings, whether the *ex parte* judgment violated his right to a fair hearing, and whether the courts below committed any illegality or material irregularity warranting interference under Article 199 of the Constitution.

6. The petitioner's principal grievance is that he was proceeded against *ex parte* without effective service of summons, allegedly because respondent No.5 furnished an incorrect address. He contends that this deprived him of an opportunity to contest the rent application and violated Article 10-A of the Constitution. However, the record, as discussed by the appellate court, indicates that summons and notices were duly served upon the petitioner and that he had knowledge of the rent proceedings, which is also reflected in the proceedings of the civil suit instituted by him, where he disclosed the pendency of rent proceedings. In these circumstances, a bare denial of service, without any convincing material to rebut the findings recorded by the appellate court, is insufficient to establish that the *ex parte* proceedings were conducted in violation of the principles of natural justice. The petitioner has not demonstrated any specific defect in the mode of service or produced material sufficient to displace the concurrent findings of the courts below. Accordingly, the plea of non-service and denial of fair opportunity does not inspire confidence.

7. The contention regarding the absence of relationship of landlord-tenant has also been examined. The learned appellate court, upon reappraisal of the oral and documentary evidence, found that the respondents had established such relationship through rent agreements and money-order receipts. Conversely, the petitioner's assertion that the payments represented interest on a loan of Rs.150,000/- was not supported by documentary evidence or an independent witness. Similarly, the alleged irregularity in the notarization of the rent agreements, in the absence of material demonstrating their invalidity, was not considered sufficient to discredit the evidence relied upon by the respondents. The petitioner's claim of ownership based on the sale deed dated 25.04.1991, and the relief sought in F.C. Suit No.21/2026, remain matters for determination by the competent civil court. The mere pendency of that suit of such nature does not, by itself, nullify the established landlord-tenant relationship or suspend the operation of the rent judgment.

8. The further contention that the appellate court ought to have remanded the matter for adjudication afresh is equally untenable. Remand is not a matter of course and cannot be ordered merely to provide a party another opportunity to establish a defence that could have been advanced before the trial court. Where the appellate court has examined the grounds of challenge, reassessed the available evidence and recorded reasons for maintaining the judgment, remand is justified only upon demonstrating a material procedural defect or a failure of justice requiring fresh adjudication. In the present case, the petitioner has failed to establish that the finding regarding service was perverse or that any material evidence was ignored or misconstrued to warrant such an exercise.

9. It is well settled that constitutional jurisdiction is not an appellate forum for reassessing evidence merely because another view may be possible. Interference under Article 199 of the Constitution is warranted where the impugned decision suffers from want of jurisdiction, material illegality, perversity, or a demonstrable violation of the law or principles of natural justice.

10. In the present matter, the petitioner has not established any such infirmity. More particularly, the plea of non-service stands contradicted by the findings recorded by the appellate court, and no convincing material has been brought on record to establish that the petitioner was prevented from participating despite exercising due diligence.

11. Article 10-A of the Constitution guarantees a fair opportunity of hearing; it does not entitle a litigant to reopen concluded proceedings based on an unsupported assertion.

12. The respondent/applicants filed the Execution Application on 06.05.2026 for execution of the judgment dated 28.02.2026 in Rent Application No.16/2024, directing the opponents to vacate and hand over possession of the shop and house situated at C.S No.464, Ward-B, Hala New, District Matiari, and pay rent arrears from February 2024 at Rs.7,700/- per month, with 10% annual increase, till delivery of possession. Consequently, the Rent Execution Application was allowed, directing the petitioner/judgment-debtors to comply with the judgment dated 28.02.2026 within 15 days, failing which a writ of possession would follow. The execution application and pending miscellaneous applications were disposed of with no order as to costs.

13. For the foregoing reasons, I find no illegality, jurisdictional defect, misreading or non-reading of material evidence, or violation of due process warranting interference with the common judgment dated 05.08.2026 passed in First Rent Appeals. The constitutional petition is, therefore, dismissed, and the impugned judgment is maintained. Any pending miscellaneous application also stands disposed of. However, this order shall not prejudice the independent adjudication of the petitioner's rights, if any, in F.C. Suit No.21/2026, in accordance with law.

JUDGE