

HIGH COURT OF SINDH AT KARACHI

Const. Petition No. S-389 of 2025

Const. Petition No. S-390 of 2025

Const. Petition No. S-391 of 2025

Const. Petition No. S-392 of 2025

Const. Petition No. S-393 of 2025

Petitioners : Muhammad Khurram Khan, Muhammad Shahid Pervaiz, Abdul Sattar, Adnan AND Muhammad Salman, through M/s. Syed Abid Ali Qadri and Muhammad Naeem Ikram, Advocates

Respondent : Jamia Masjid Farooqia Trust, through M/s Muhammad Asghar Qureshi and Tajammul H. Lodhi, Advocates

Date of Hearing & : 28.08.2026.
Order

ORDER

NISAR AHMED BHANBHRO, J. Through this single order the fate of the above captioned petitions is desired to be decided as therein a common question of facts and law is involved.

2. Through the judgment dated 15.04.2025 passed separately in FRA No.139 of 2024 (re: Khurram Sheraz v. Jamia Masjid Farooqia Trust & Ors.), FRA No.88 of 2024 (re: Muhammad Shahid Pervaiz v. Jamia Masjid Farooqia Trust & Ors.), FRA No.140 of 2024 (re: Abdul Sattar v. Jamia Masjid Farooqia Trust & Ors.), FRA No.89 of 2024 (re: Adnan v. Jamia Masjid Farooqia Trust & Ors.) and FRA No.90 of 2024 (re: Muhammad Salman v. Jamia Masjid Farooqia Trust & Ors.) by the learned Additional District & Sessions Judge-IV (Central) Karachi and orders dated 07.08.2024 passed separately in Rent Case No.127 of 2023 (re: Jamia Masjid Farooqia Trsut & Ors. vs. Khurram Sheeraz) order dated 30.04.2024 Rent Case No.487 of 2022 passed separately (re: Jamia Masjid Farooqia Trsut & Ors. vs. Muhammad Shahid Pervaiz), Rent Case No.128 of 2023 (re: Jamia Masjid Farooqia Trsut & Ors. vs. Abdul Sattar), Rent Case No.489 of 2022 (re: Jamia Masjid Farooqia Trsut & Ors. vs. Adnan Bakers) and Rent Case No.492 of 2022 (re: Jamia Masjid Farooqia Trsut & Ors. vs. Muhammad Salman) by the learned Rent Controller XI (Central) Karachi on the ground of bona-fide need for extension of Jamia Masjid Farooqia situated at Plot No.ST-3, Sector 11-L, Gulshan-e-Farooq-e-Azam, North Karachi and default in payment of rent was allowed.

3. Learned counsel for the petitioners contended that the rent case was instituted by an unauthorized person. He further contended that the Trust was created by the Trustees for managing the affairs of the Masjid, and that, with the passage of time, the original Trustees had ceased to hold office; however, the Committee of the Trust failed to appoint new Trustees and, as such, violated the provisions of the Trust Act, particularly Section 73 thereof. He next contended that the authorization for institution of the rent case was issued by a single person without convening or holding any meeting. He, therefore, argued that the rent case was not maintainable and was liable to be dismissed, but the learned trial Court had apparently failed to consider this legal aspect of the matter. He further prayed that the instant petition may be allowed and the concurrent findings recorded by the Courts below may be set aside. In support of his contentions, he placed reliance upon the cases of *Rustom Cawasji Irani v. Meherwan Cawasji Irani* (NLR 1994 Civil 691), *(Shahida Bibi v. Habib Bank Limited and others)* (PLD 2016 SC 995), *Messrs A.M. Industrial Corporation Limited v. Aijaz Mehmood & Ors.* (2006 SCMR 437), and *Iqbal Yousuf v. Kishwar Jehan* (1991 SCMR 864).

4. Learned counsel for respondent No. 1 contended that the petitioners are tenants of Jamia Masjid Farooqia Trust and were defaulters in payment of monthly rent. Despite service of notices, they failed to deposit the rent. He further submitted that the subject premises were required for the extension of the Masjid and, therefore, the bona fide requirement of the landlord remained unchallenged during the evidence. There is no misreading and non-reading of the evidence on record or the findings suffered from any jurisdictional defect which requires interference under the writ jurisdiction. He therefore prayed to dismiss the petitions.

5. Heard arguments and perused the material available on record.

6. As to the objection regarding institution of the suit by an irrelevant person, it transpires from the record that the Trust Deed was amended in the year 2012, whereby new trustees were appointed in place of the previous trustees, and one Naeem-ur-Rehman was appointed as President of the Trust. It further transpires that a meeting of the trustees was convened on 23.11.2022, wherein Mr. Irfan Khan was authorized to file the ejectment application against the petitioners. The said resolution was signed by the General Secretary of the Trust. From the minutes of the meeting, available at page 109 of the Court file, it further transpires that the Secretary of the Trust was authorized to issue an authority letter in favour of Mr. Irfan Khan. The case was instituted pursuant to said authority letter and on declaration of amended Trust Deed of year 2012 the embargo available under

Section 73 was no more in the field even otherwise this was rent case wherein only the authorization of Trust was required for its institution. Therefore, the courts below rightly held that the rent case was maintainable.

7. As to the issue of default in payment of monthly rent, learned counsel for the petitioners admits that the default was committed; however, he submits that the same was technical in nature, as the petitioners had volunteered to deposit the rent through the modes as prescribed under Section 10 of the SRPO, 1979. However, upon the refusal of the landlord to receive the rent, MRCs were filed in the year 2023, wherein rent was deposited from the month of January 2023. From the pleadings of the parties and the evidence available on record, it transpires that rent was neither paid nor deposited from the month of September 2022, and this piece of evidence remained admitted fact which noproof.

8. As regards the bona fide requirement of the landlord for the demised premises, it has been established that the Trust intends to extend the Masjid and, for that purpose, requires the subject shops. This aspect of the case also stood duly proved.

9. Learned counsel for the petitioners failed to point out any misreading or non-reading of the evidence available on record, or any jurisdictional defect in the concurrent findings recorded by the Courts below, warranting interference by this Court in the exercise of its constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

10. The citations relied upon by learned counsel for the petitioners pertain to the appointment of trustees and are not relevant to the determination of the rent cases in question.

11. For the foregoing reasons, these petitions fail and are accordingly dismissed.

JUDGE