IN THE HIGH COURT OF SINDH, KARACHI

Const. Petition No. S-1015 of 2025

Petitioners	**:**	**1.** M/s. Link Education Foundation Pvt. Ltd & **2.** Ms. Nausheen Leghari D/o Sardar Noor Illahi Leghari, through M/s. Sarmad Khan, advocate.
Respondents	**:**	**1.** Mrs**.** Zakia Hanafi widow of Muhmmad Hassan Hanafi (since deceased), Through legal heirs, 1.Ammar Hassan Hanafi S/o Muhammad Hassan Hanafi, 2. Muhammad Ali Hanafi S/o Muhammad Hassan Hanafi, 3. Shirin Haque W/o Mehboob Ali Haque D/o Muhammad Hassan Hanafi, and 4. Mst. Seema Mushtaq Khan W/o Mushtaq Ali Khan D/O Muhammad Hassan Hanafi, All through M/s. Arshad M. Tayebaly & Tariq Ahmed Memon, Advocate. **2.** VIIth Additional District Judge, (South) Karachi. **3.** IInd Rent Controller, Karachi (South). Through Assistant Advocate General, Sindh.
Date of Hearing	:	13.10.2026, 21.10.2026 & 28.10.2026
Date of Judgment	:	28.10.2026

O R D E R

Amjad Ali Bohio, J. The instant Constitutional Petition is directed against the judgment dated 01.09.2025 passed by the learned VIIth Additional District Judge/MCAC, Karachi South, in First Rent Appeal No. 30 of 2025, whereby the judgment dated 04.02.2025 passed by the learned IInd Rent Controller, Karachi South, in Rent Case No. 33 of 2022 was set aside. Consequently, the eviction application filed by respondent No. 1, Mrs. Zakia Hanafi (owner), was allowed on the grounds of default in payment of rent and personal bona fide need, with a direction to the petitioners to vacate the premises within 45 days from the date of the judgment.

2. Respondent No. 1 approached the learned Rent Controller by filing an eviction application against the petitioners on the grounds of default in payment of rent, subletting, and personal bona fide need. It was her case that she was residing in a trust property for which she was paying rent and, therefore, intended to shift to her own property for her personal use and occupation and that of her

family. Accordingly, she claimed that the premises were required in good faith for her own use and occupation and for the benefit of her children. The petitioners contested the eviction application on various grounds. Both parties adduced oral evidence in support of their respective claims. Upon assessment of the evidence, the learned Rent Controller dismissed the eviction application, holding that neither default in payment of rent nor subletting had been established. The learned Rent Controller further observed that respondent No. 1 had passed away during the pendency of the eviction proceedings and, therefore, her claim of personal bona fide need did not survive after her death, particularly when her legal heirs had not asserted any personal bona fide need of their own. Aggrieved by the said findings, the legal heirs of respondent No. 1, namely Ammar Hassan Hanafi and Muhammad Ali Hanafi, through their attorney, challenged the judgment by filing a First Rent Appeal, purportedly on behalf of respondent Nos. 3 and 4 as well, although the said attorney was not representing them. The learned VIIth Additional District Judge/MCAC, Karachi South, set aside the judgment passed by the learned Rent Controller and allowed the First Rent Appeal on the grounds of default in payment of rent and personal bona fide need, directing the petitioners to vacate the premises within 45 days vide judgment dated 01.09.2025. The said judgment is the subject matter of the instant Constitutional Petition.

3. Mr. Sarmad Khan, learned counsel for the petitioners, referred to the contents of the eviction application filed by respondent No. 1, the reply submitted on behalf of the petitioners before the learned Rent Controller, and the evidence adduced by the parties. He strongly supported the findings recorded by the learned Rent Controller, particularly with regard to the claim of personal bona fide need, which had been declined on the ground that respondent No. 1 had passed away before the decision of the eviction application. He contended that, following the demise of respondent No. 1, no ground of personal bona fide need survived, as her legal heirs, despite having been joined in the rent proceedings before the learned Rent Controller, had not asserted any personal bona fide need of their own. Learned counsel further argued that, after the death of respondent

No. 1, the attorney had failed to furnish a fresh power of attorney executed by her legal heirs while preferring the First Rent Appeal. Consequently, according to him, the appeal was incompetent, and the impugned judgment passed by the learned VIIth Additional District Judge/MCAC, Karachi South, was void ab initio and liable to be set aside. He contended that the learned Appellate Court had failed to apply its judicial mind to the facts and circumstances of the case. With regard to the alleged default in payment of rent, learned counsel submitted that the petitioners had regularly deposited the rent into the bank account of respondent No. 1 for a considerable period, which she had duly accepted without raising any objection and had issued receipts in acknowledgment thereof. He further submitted that the enhanced rent at the rate of 9% had not been paid for the relevant period because the petitioners had incurred substantial expenses on the maintenance of the premises. According to learned counsel, this fact had also been specifically mentioned in paragraph 15 of the reply dated 25.06.2020, submitted in response to the legal notice dated 13.06.2020 issued by respondent No. 1, a copy of which was annexed at page 235 of the record. Learned counsel, therefore, prayed that the impugned judgment dated 01.09.2025 passed by the learned VIIth Additional District Judge/MCAC, Karachi South, in First Rent Appeal No. 30 of 2025 be set aside and the judgment dated 04.02.2025 passed by the learned IInd Rent Controller, Karachi South, in Rent Case No. 33 of 2022 be maintained. In support of his contentions, learned counsel relied upon the following case law: *Muhammad Yousuf v. Abdullah* **(PLD 1980 SC 298),** *Sir E.H. Jaffar and sons LTD. v. Sultan Karam Ali and others* **(1995 SCMR 330),** *Haji Muhammad Hanif v. Mohsin Ali* **(1997 MLD 2754)**, *F.B Davis v. Mrs. Shakar Khano Bai represented by legal heirs* **(1986 MLD 1342),** *Muhammad Shafi and others v. Muhammad Ilyas* **(1986 SCMR 451),** *Abdul Ghani v. Abdul Aziz* **(1986 CLC 1778),** *Hirjibhai Behrana Dar-e-Meher through Attorney v. Messrs Bombay Steel Works, Partnership Firm, through partner* **(2001 SCMR 1888)**, *Iqramullah and 2 others V. Muhammad Tufail* (**1993 CLC 2005**), *Gulzar Begum v. Mst. Amtun Nisa* **(1985 MLD 119)**, *Mst. Kulsoom Naz v. Dr. Itifaq Hussain & another*

(2012 SCMR 177), *Naveed Merchant & another v. Pakistan Institute of International Affairs through Accountant and another* **(PLD 2012 Sindh 23)**, order passed by this Court in C.P. No. S-513 of 2024 dated 04.12.2025 and order passed by this Court in C.P. No.S-434 of 2025 dated 31.08.2026.

4. Learned counsel for respondent No. 1 argued that the learned Appellate Court had duly considered and adjudicated upon every material issue raised by the parties after thoroughly examining the entire record, including the documentary and oral evidence, in the light of the applicable law. According to learned counsel, the impugned judgment is a well-reasoned, speaking, and lawful judgment, founded upon the evidence available on record and the settled principles of law. He further contended that the instant Constitutional Petition had been filed by the petitioners with the sole object of delaying and frustrating the lawful execution of the eviction order passed by the learned Appellate Court. The petitioners had failed to identify any jurisdictional defect, illegality, or material irregularity warranting interference by this Court in the exercise of its constitutional jurisdiction. He, therefore, prayed for dismissal of the instant petition. In support of his contentions, learned counsel relied upon the following case law *Mehdi Nasir Rizvi v. Muhammad Usman Siddiqui* **(2000 SCMR 1613),** *Shakeel Ahmed and another v. Muhammad Tariq Farogh and others* **(2010 SCMR 1925),** *Mst. Jehan Ara through attorney v. Raja Zafarullah Janjua* **(PLD 2003 SC 277),** *Messsrs Brightlink Mobile Phone & Accessories through Proprietor v. Muhammad Qamar Ghani and 2 others* **(PLD 2017 Sindh 409),** *Wajahat Hassan v. Khawaja Basheer Ahmed* **(1993 SCMR 707),** *Mrs. Zarina Khawaja v. Agha Mehboob Shah* **(PLD 1988 SC 190),** *Abdul Latif and another v. Messrs Parmacie plus* **(2019 SCMR 627),** *Ahmed v. Miss Aisha Tariq* **(2011 CLC 538) [Karachi]** and an order dated 02.09.2022 passed by the High Court of Sindh at Karachi in Constitution Petition No.S-824 of 2018 re: Dr. Sunil Ahmed Hotwani v. Abdul Wakeel.

5. I have heard the arguments advanced by learned counsel for the parties and have perused the record.

6. Prior to the institution of the ejectment proceedings by the deceased landlady, Mst. Zakia Hanafi, a legal notice dated 13.06.2020 was served upon petitioner No. 2, seeking eviction of the demised premises on the ground of personal bona fide need. However, the petitioners, through their counsel, declined to vacate the premises vide reply dated 25.06.2020. Subsequently, another letter dated 24.12.2020 was issued, which was also replied to vide letter dated 29.12.2020. Thereafter, in January 2022, the landlady instituted an ejectment application, asserting that the demised premises were required in good faith for her own use and occupation and for the benefit of her family and children. It was her case that she was residing in a trust property as a tenant and paying rent to the trust, and intended to shift to her own property. She further alleged that the petitioners had committed default in payment of rent from 01.01.2021 until the institution of the rent case and had also sublet the demised premises.

7. Upon evaluation of the evidence, the learned Rent Controller dismissed the ejectment application on the grounds of personal bona fide need, default in payment of rent, and subletting. While declining the claim of personal bona fide need, the learned Rent Controller observed that respondent No. 1, the landlady, had passed away during the pendency of the rent proceedings and that her legal heirs had not asserted any personal bona fide need of their own. Aggrieved by the said judgment, the legal heirs of respondent No. 1 preferred First Rent Appeal No. 30 of 2025, which was decided by the learned VIIth Additional District Judge/MCAC, Karachi South. Vide judgment dated 01.09.2025, the learned Appellate Court set aside the judgment passed by the learned Rent Controller, holding that the claim of personal bona fide need had not been properly adjudicated upon. The learned Appellate Court further observed that the ground of default had been decided without due consideration of the stipulation contained in the tenancy agreement regarding renewal of the tenancy subject to a 9% increase in monthly rent, a fact which had not been disputed by the petitioners in their written statement before the learned Rent Controller. However, the learned Appellate Court maintained the findings of the learned Rent Controller with

regard to the allegation of subletting. Consequently, the petitioners have preferred the instant Constitutional Petition, challenging the findings of the learned Appellate Court regarding personal bona fide need and default in payment of rent, as recorded in the judgment dated 01.09.2025 passed in First Rent Appeal No. 30 of 2025.

8. During the trial before the learned Rent Controller, Muhammad Aslam Hanafi, the attorney of respondent No. 1, reiterated in his affidavit-in-evidence the aforementioned grounds of personal bona fide need and default in payment of rent. It is evident from the record that the attorney of respondent No. 1 was cross-examined at length; however, his testimony regarding the bona fide requirement of the demised premises by the landlady for her own use and occupation and that of her family remained unimpeached. Even upon a careful examination of the extensive cross-examination of the petitioners, I have not found any material discrepancy sufficient to discredit the evidence produced on behalf of respondent No. 1. It is a settled principle of law that where the statement made on oath on behalf of a landlord or landlady is consistent with the averments contained in the ejectment application, and the testimony remains unshaken during cross-examination without any contrary evidence being brought on record, such evidence may be sufficient to establish the bona fide requirement of the premises. In paragraph 10 of his affidavit-in-evidence, the attorney of respondent No. 1 specifically stated that the demised flat had been required for the personal use and occupation of respondent No. 1 and her family since December 2018. He explained that respondent No. 1 was residing in a property owned by a trust as a tenant and was paying rent for the same. Therefore, she intended to shift to her own property rather than continue residing with her family in rented accommodation. To substantiate the assertion that respondent No. 1, despite being the owner of the demised premises, was residing in rented accommodation belonging to a trust, her attorney produced the trust deed and documents relating to the payment of rent, which were exhibited as Exh. A/7 and Exh. A/8, respectively. The said documentary evidence was not effectively challenged, as

the petitioners failed to produce any evidence in rebuttal. Consequently, no material has been brought on record to establish that the claim of personal bona fide need was motivated by mala fide considerations. The settled principle is that where the testimony of a landlord or landlady, given on oath, is consistent with the pleadings in the ejectment application and remains unimpeached during cross-examination, it may constitute sufficient evidence to establish the bona fide requirement of the demised premises. Reliance in this regard may be placed upon Akhtar Qureshi v. Nisar Ahmed, reported as 2000 SCMR 1292, wherein it was held as under:

> *"The assertion or claim on oath by the landlady/ landlord that she/he required the premises for her/his personal use, should be accepted by the Rent Controller as bona fide, if such claim, or assertion although by itself may not be sufficient, yet is consistent with his/her averments made in the application and are neither shaken in the cross-examination nor are disproved in rebuttal".*

Similarly, in Shakeel Ahmed and another v. Muhammad Tariq Farogh and others, reported as 2010 SCMR 1925, the Honourable Supreme Court has held as follows:

> *"6. For seeking eviction of a tenant from the rented shop, the only requirement of law is the proof of his bona fide need by the landlord, which stands discharged the moment he appears in the witness box and makes such statement on oath or in the form of an affidavit-in-evidence as prescribed by law, if it remains un-shattered in cross-examination and un-rebutted in the evidence adduced by the opposite party. If any case law is need to fortify this."*

9. As regards the contention raised by learned counsel for the petitioners, supporting the findings of the learned Rent Controller that no personal bona fide need survived after the demise of respondent No. 1, it is observed that respondent No. 1, in paragraph 6 of her ejectment application, specifically asserted that the demised premises were required for her own use and occupation as well as for the benefit of her family. She categorically stated that, being a tenant in rented accommodation, she intended to shift to her own property, i.e., the demised premises. As discussed hereinabove, the evidence produced in support of the said claim remained unimpeached during cross-examination. In such circumstances, the demise of respondent No. 1 would not, by itself, extinguish the bona fide requirement of the demised premises, particularly when the ejectment application had been instituted not merely for her individual use and occupation but also for the benefit of her family. It is further noteworthy that respondent Nos. 1(1) and

1(2), namely Ammar Hassan Hanafi and M. Ali Hanafi, respectively, are the real sons of the deceased landlady, respondent No. 1, and were the persons who preferred First Rent Appeal No. 30 of 2025. Thus, the requirement pleaded by the deceased landlady cannot be construed as one confined exclusively to her individual need, particularly when the premises were also sought for the use and occupation of her family. Consequently, the demise of respondent No. 1 did not extinguish the subsisting requirement of her legal heirs, and their right to sue survived. The above view finds support from the case of Messrs Brightlink Mobile Phone & Accessories through Proprietor v. Muhammad Qamar Ghani and 2 others (***supra***), wherein it has been held as under:

> *"As evident from the foregoing, the law permits eviction of the tenant for the requirement of the landlord for the bona fide use of himself and other members of his family then the requirement is alive for both of the landlord and the members of his family, thus on his death, the right to sue did survive to the members of the family of the deceased landlord. I therefore, do not concede to the views of the learned counsel for the petitioner that the requirement of the use of the members of the family of the deceased ceased to be the requirement of the members of his family on his death. The law is very clear, after the death of the landlord, member of his family will take his/her place and they are fully competent to continue the suit for eviction initiated by the landlord for his occupation and for the occupation of the surviving members of his family as SPRO clearly provides that the landlord to apply to the Controller for an order directing the tenant to put him in possession of the tenanted property, if he requires the property in good faith for the occupation or use of himself or any member of his family being his wife (or husband), sons or daughters. It is evident that the law has Gender neutrality as it does not discriminate a female family members form the male family members (or vice versa), irrespective of the fact that the tenanted property is either residential or commercial."*

10. In the aforementioned case, the Court also considered the question that disputed questions of fact cannot ordinarily be examined in constitutional jurisdiction and, in this regard, referred to the following case-law authorities:

> *"**(a)** M. Siddique Butt v. ADJ, Lahore* **(2010 CLC 1095)**
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> *In this case father who demanded the tenanted property for personal bona fide use died during the proceedings and his son claimed the property in question for his commercial use. The Controller ordered ejectment of tenant on ground that the personal bona fide need subsisted landlord's death and Appellate Court affirmed order of the Rent Controller. The High Court refused to interfere as findings of fact by the two courts below were held neither infirm on account of misreading and non-reading nor for misapplication nor non-application of the proper law.*
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> ***(b)** Ahmed Saeed Rizvi v. Janant Bibi* ***(2006 CLC 1848)***

In this case the respondent landlady (who after filing ejectment application had died) had sought ejectment of tenant on ground that she needed the property for her bona fide use and after death of the landlady, her application was not affected irrespective of the dismissal of amendment application as ejectment was sought by landlady on the ground of personal use. High Court held that findings of the court were proper.

(c) *Husna Begum v. Deen Mohammad* ***(1999 CLC 1399)***

In this case too, the original owner and landlord having died and legal heirs of deceased served notice of change of ownership of premises on tenant. Court held that scope of inquiry in case under S.14 of Sindh Rented Premises Ordinance, 1979 would include need of legal heirs of deceased. Widow and one of sons of deceased landlord having proved their personal bona fide need in respect of premises, they were entitled to get premises vacant.

(d) *Rajagopala v. P.Revanna* ***1974(1) KLJ 425. K.***

In the case, the landlord died before the evidence commenced in the proceedings. His son stated that the shop is required by him to continue his father's business. Learned Munsiff even after the death of the landlord father held that the landlord has proved that the shop is reasonably and bona fide required by him for his personal occupation and if the possession is not given, it would cause him greater hardship. Those findings were affirmed by the District Judge in the appeal preferred by the tenant."

11. It may further be observed that the fact that respondent No. 1 had examined her attorney to establish her personal bona fide need does not, in itself, defeat her claim, particularly when the said attorney, through his oral as well as documentary evidence, successfully substantiated the asserted requirement, as discussed hereinabove. Reliance in this regard has rightly been placed upon the case of Mst. Jehan Ara through Attorney v. Raja Zafarullah Janjua (supra), wherein it was held as under:

> *"We are afraid the appellant cannot be non-suited only on the ground of non-examining herself in support of her personal Bonafide need and that her representation through Attorney was fatal to her case. The record reveals that the Appellant has been able to establish her case by producing sufficient evidence of her Attorney, namely, Altaf Hussain and one Dr. Tehsin-Ur-Rehman in support of her contention."*

12. During the course of hearing, learned counsel for the petitioners pointed out that the appellants in First Rent Appeal No. 30 of 2025 were not represented by a duly authorized attorney and had preferred the appeal through the attorney of the deceased respondent, Mrs. Zakia Hanafi. In order to examine the said objection, the R&Ps of First Rent Appeal No.30 of 2025 were called for and perused. Upon examination, it transpired that respondent Nos. 1(1) and 1(2), namely Ammar Hassan Hanafi and M. Ali Hanafi, had preferred the aforesaid First Rent Appeal through their Special Attorney, Muhammad Aslam Hanafi. The

Special Power of Attorney executed in their favour by the said appellants was also found available on the record of the First Rent Appeal. Thus, the record of the appellate proceedings establishes that the appellants namely Ammar Hassan Hanafi and Muhammad Ali Hanafi were represented through their duly authorized Special Attorney while pursuing the First Rent Appeal. To consider the contention of learned counsel for the petitioners that remaining two legal heirs namely Shireen Haque and Mst. Seema Musthaque Ali Khan did not authorize attorney Muhammad Aslam Hanafi, thereby First Rent Appeal on their behalf was not maintainable. The above contention having no force because the definition of 'Landlord' as per Section 2(f) of the Sindh Rented Premises Ordinance, 1979 denotes the owner of the premises and includes the persons for the time being entitled or authorized to receive the rent in respect of the premises. Accordingly, respondents Ammar Hassan Hanafi and Muhammad Ali Hanafi being co-owners after demised of respondent No.1 Mrs. Zakia Hanafi cannot be questioned with regard their rights to seek ejectment of the tenants on the grounds permissible under Section 15 of the S.R.P.O., 1979. Reliance in this regard is placed on the case of *Muhammad Ramzan (deceased) through L.Rs and another V. Muhammad Tasleem and others* (**2026 SCMR 1459**), which reads as under:-

> "*6. It is a settled principle of law that upon the death of a landlord, his legal heirs step into his shoes by operation of law*[1]*. No fresh contract of tenancy or formal act of attornment is required. Attornment follows as a legal consequence of succession, and the tenant is bound to recognise the lawful heirs as landlords and to pay rent to them, particularly where notice in this regard has been duly served, and its receipt is admitted. In the instant case, the petitioners-tenants have admitted service of notice whereby the respondent asserted his status, along with that of the other legal heirs, as successor landlords, and demanded payment of rent. The plea of the petitioners-tenants that rent need not be paid to the respondent merely on the ground that he is one of several legal heirs and that other brothers and sisters exist is wholly untenable. It is well-settled by this Court in Anwar Khan*[2] *and Khalique Ahmed*[3] *that an ejectment application may be filed by one of the landlords alone, and it is not necessary for him to obtain written permission from other co-owners. The respondent, being one of the legal heirs and co-owners of the property, has locus standi to initiate eviction proceedings. The rationale behind this principle, as explained by Muhammad Hanif*[4]*, is that a co-sharer acts on behalf of and represents the interests of all co-owners in the property. By the same logic, the right to demand rent vests in each co-heir*

individually; a tenant cannot refuse to pay rent to a lawful co-heir on the ground that there are other heirs. Deposit of rent must be made in favour of the person legally entitled to receive it; a deposit in the name of a deceased person is nullity in the eyes of the law. Once a lawful demand for rent is made by a co-heir and the tenant wilfully fails to comply, the filing of ejectment proceedings becomes a natural and legal consequence of such default, as recognized by the above precedents. Consequently, the argument that rent could continue to be deposited in the name of the deceased landlord, despite knowledge of the lawful heirs, loses all legal force and cannot be countenanced.

1. *Mst. Suban Vs. Allah Ditta and others (**2007 SCMR 635**).*
2. *Anwar Khan Vs. Abdul Manaf (**2004 SCMR 126**).*
3. *Khalique Ahmed Vs. Abdul Ghani and another (**PLD 1973 SC 215**).*
4. *Muhammad Hanif Vs. Muhammad Jamil Turk (**2002 SCMR 429**)."*

Accordingly, the facts and circumstances of the aforementioned case law relied upon by the learned counsel for the petitioner are clearly distinguishable from those of the case in hand.

13. Adverting to the question of default in payment of rent, it is observed that the learned Appellate Court, while examining this aspect, referred to the evidence produced by the petitioners, who admitted the terms and conditions of the Rent Agreement executed on 26.02.2014 for a period of eleven months, stipulating an annual increase of 9% in the monthly rent. The learned Appellate Court further observed that there was no denial on the part of the petitioners regarding the renewal of the tenancy subject to an annual increase of 9% in the monthly rent. It may be noted that the stipulation contained in the agreement regarding renewal of the tenancy with a 9% annual increase in monthly rent was neither disputed by the petitioners in their written statement before the learned Rent Controller nor could learned counsel for the petitioners deny the same during the course of arguments before this Court. However, learned counsel for the petitioners contended that the learned Appellate Court had failed to appreciate that the petitioners had not paid the annual increase of 9% in the monthly rent for the period from 2018 to 2022 on the ground that they had incurred substantial expenses towards the maintenance of the demised premises. He further submitted that this fact had specifically been mentioned in paragraph 15 of the reply dated 25.06.2020, submitted in response to the legal notice dated 13.06.2020. Learned counsel further contended that, after

2022, the petitioners had been regularly paying rent with the stipulated annual increase of 9%. In this regard, learned counsel for respondent No. 1 also submitted a statement dated 18.09.2026, setting out the details of rent payments made by the petitioners, including the alleged default in payment of rent, which is reproduced as under:

YEAR	**MONTHLY RENT AMOUNT**	**RENT PAYABLE (ANNUALLY)**	**AMOUNT DEFAULTED**
2014	Rs. 70,000/-	Rs. 770,000/-	
2015	Rs. 76,300/-	Rs. 839,300/-	-
2016	Rs. 83,167/-	Rs. 914,837/-	-
2017	Rs. 90,652/-	Rs. 997,172/-	-
2018	**Rs. 98,810/-**	**Rs. 1,086,917/-**	**Rs. 89,745/-**
2019	**Rs. 107,703/-**	**Rs. 1,184,740/-**	**Rs. 187,568/-**
2020	**Rs. 117,396/-**	**Rs. 1,291,356/-**	**Rs. 294,184/-**
2021	**Rs. 127,961/-**	**Rs. 1,407,578/-**	**Rs. 410,406/-**
2022	**Rs. 139,477/-**	**Rs. 1,534,249/-**	**Rs. 152,028/-**
2023	Rs. 152,029/-	Rs. 1,672,320/-	Rs. 165,710/-
2024	Rs. 165,711/-	Rs. 1,822,829/-	Rs. 180,624/-
2025	Rs. 180,625/-	Rs. 1,986,884/-	Rs. 16,884/-
2026	Rs. 196,882/-	Rs. 2,165,703/-	Rs. 251,968/-
-		TOTAL AMOUNT IN DEFAULT	Rs. 1,749,117/

14. In view of the aforementioned background, it would be appropriate to examine the contention raised by learned counsel for the petitioners that the petitioners had incurred substantial expenses on the repair and maintenance of the demised premises. In this regard, the testimony of Mst. Rukhsana Ahmed, attorney of the petitioners, available at page No. 397 of the R&Ps, is relevant. During her cross-examination, she also admitted that the petitioners had not paid the enhanced rent, incorporating the stipulated annual increase of 9%, for the period from 2018 to May 2022. She deposed as under:

> "*It is correct to suggest that from 2018 to May 2022, I have not paid the rent of demised premises with increase of 9% vol. says that as stated earlier the parties had verbally mutually agreed not to increase the rent due to major expenses, renovation and maintenance carried by opponent from her own pocket.*"

15. The petitioners failed to produce any oral or documentary evidence in rebuttal to establish that they had actually incurred expenses on the renovation, repair, or maintenance of the demised premises, so as to justify withholding the amount equivalent to the stipulated 9% annual increase in rent. In this regard, His Lordship Mr. Justice Rana Bhagwandas, in the case of Mehdi Nasir Rizvi v. Muhammad Usman Siddiqui, reported as 2000 SCMR 1613, held as under:

> *"In the absence of any strong evidence to rebut the presumption of truth in the statement of the respondent it is difficult to dislodge the conclusion drawn by the learned Rent Controller as well as the learned High Court. It is well-settled that the landlord has the absolute right to acquire and deal with his property in the manner best suited to him arid a tenant has no right to disentitle the landlord of his valuable right to acquire, deal and possess his property which right is again guaranteed by Article 23 of the Constitution."*

Thus, the petitioners had admittedly committed default in payment of rent by failing to pay the stipulated 9% annual increase in the monthly rent, as mutually agreed upon between the parties under the tenancy agreement. The learned Appellate Court, therefore, rightly arrived at such a conclusion on the basis of sound reasoning.

16. Admittedly, the annual increase of 9% in the monthly rent was not imposed unilaterally but was mutually agreed upon by both parties. Such an agreed enhancement could not subsequently be questioned by the tenants without resorting to the appropriate legal remedy, namely, an application for fixation of fair rent. In the present case, the petitioners admittedly did not file any such application and, under the terms of the tenancy agreement, were bound to pay the enhanced rent at the rate of 9% after every eleven months. It is also a settled principle of law that the tenancy does not automatically come to an end upon expiry of the period stipulated in the tenancy agreement but continues in accordance with law. In this regard, reliance may be placed upon the case of *Abdul Latif and another v. Messrs Paramacie Plus* (***supra***), wherein it was held that failure to pay the agreed rent within the period prescribed by law amounts to default in payment of rent and renders the tenant liable to eviction.

17. For the foregoing reasons and discussion, I am of the considered view that the learned Appellate Court rightly allowed the First Rent Appeal. It is further held that, upon the demise of their mother, Mst. Zakia Hanafi, the legal heirs of the deceased landlady, being her successors-in-interest, stepped into her shoes by operation of law and became entitled to pursue the claim for eviction. The bona fide requirement of the demised premises was duly established, as the premises had been sought not only for the personal use and occupation of the deceased landlady but also for the benefit of her family. Furthermore, the petitioners admittedly failed to pay the stipulated annual increase of 9% in the monthly rent for the period from 2018 to 2022, thereby committing default in payment of rent. Consequently, I find no illegality, material irregularity, or jurisdictional defect in the impugned judgment dated 01.09.2025 passed by the learned VIIth Additional District Judge/MCAC, Karachi South, in First Rent Appeal No. 30 of 2025, warranting interference by this Court in the exercise of its constitutional jurisdiction. Accordingly, the instant Constitutional Petition is dismissed. However, the petitioners are granted a period of 60 days from the date of this order to vacate the demised premises. The office is directed to return the R&Ps of Rent Case No. 33 of 2022 to the learned IInd Rent Controller, Karachi South, and the R&Ps of First Rent Appeal No. 30 of 2025 to the learned VIIth Additional District Judge/MCAC, Karachi South.

18. Above are the reasons of my short order dated **28.10.2026.**

JUDGE

Manthar Brohi