HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.S-263 of 2026
[Nadeem Akhtar and another vs. Babar Adeel and others]

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Petitioners:	Through Ms. Uzma Zahid and Ms. Sharfeen, advocates
Respondent	Through Mr. Naeem Ahmed Junejo, Advocate
Date of hearing	29.10.2026
Date of Decision	29.10.2026

O R D E R

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ADNAN-UL-KARIM MEMON J The petitioners have challenged the judgments dated 20.04.2026 passed by learned Vth Additional District & Sessions Judge, Hyderabad, in FRA Nos.04 and 05 of 2026, whereby their appeals were dismissed. The ejectment orders dated 11.12.2025 and 19.09.2025 passed by the Rent Controller in Rent Cases Nos. 92 and 93 of 2025 were maintained, directing them to vacate the disputed shops situated in Naeem Manzil Plaza, Hirabad, Hyderabad.

2. Learned counsel for the petitioners contends that Petitioner No.1 is the owner of property bearing C.S. No.A/2308 and holds 50% undivided share in adjoining property bearing C.S. No.A/2309, while the remaining share belongs to Respondent No.1. Both properties were amalgamated, and a building comprising flats and shops was constructed by Petitioner No.1. Subsequently, shop Nos.1, 2 & 3 were let out to Petitioner No.2 through rent agreement dated 04.02.2025. He maintains that no landlord-tenant relationship exists between Petitioner No.2 and Respondent No.1, nor did he deposit any rent or security with the latter. He alleges that Respondent No.1 instituted ejectment proceedings based on a false oral tenancy claim, which were allowed by the Rent Controller despite their objections. It is further contended that the appellate court dismissed their appeals without properly considering their arguments and the material available on record. Accordingly, she seeks setting aside of the impugned judgments and ejectment orders and suspension of the execution proceedings.

3. Learned Rent Controller vide order dated 19.9.2025 observed that the applicant / respondent No.1 had established his status as a co-sharer of the demised

premises through City Survey Extract, whereas the opponents failed to produce any documentary evidence to rebut his claim. It was held that any co-sharer was competent to initiate rent proceedings against a tenant, irrespective of whether the tenancy agreement had been executed by him or another co-sharer. Since opponent No.2 had inducted opponent No.1 as tenant at a monthly rent of Rs.36,000/-, but the applicant's share in the rent was disputed, and partition proceedings were also pending between the parties, the Rent Controller deemed it appropriate to safeguard the interests of all concerned. Consequently, opponent No.1 was directed to deposit monthly rent of Rs.36,000/- before the Nazir/COC with effect from October 2025 and future rent by the 10th of each month until further orders. The application was accordingly disposed of, with the observations being tentative and not affecting the merits of the main case.

4. The Rent Controller vide order dated 11.12.2025 observed that despite the tentative rent order dated 19.09.2025, directing the tenant to deposit monthly rent of Rs.36,000/- with effect from October 2025 and future rent by the 10th of each month, the tenant failed to deposit any rent, as confirmed by the Nazir's report. The tenant had also been given sufficient time of two months to comply with the order but failed to do so, while admitting that no stay order had been granted by this Court in the pending constitutional petition. Relying upon the judgments reported as PLD 2018 SC 35 and 2018 SCMR 1720, the Rent Controller held that pendency of civil litigation or denial of the landlord-tenant relationship did not absolve the tenant from complying with the tentative rent order. Consequently, finding willful non-compliance, the application under Section 16(2) of the SRPO, 1979 was allowed, the tenant's defence was struck off, and the ejectment application was allowed with directions to vacate the premises and hand over vacant and peaceful possession within 30 days, without costs.

5. Both orders were challenged in F.R.A. No.5 of 2026 and the Appellate Court observed that respondent No.1 had established as a co-sharer and landlord of the demised premises based on the property extract (Ex.8/B), and was competent to seek ejectment even though the tenant had originally been inducted. The tenant, respondent No.2/now petitioner No.2, failed to comply with the Rent Controller's order dated 19.09.2025 directing deposit of monthly rent at Rs.36,000/- with effect from October 2025. Such default justified striking off his defence under Section 16(2) of the SRPO, 1979, and passing an ejectment order. The appellate Court further held that denial of the landlord-tenant relationship did not absolve the tenant from complying with the tentative rent order, nor was framing of issues necessary in the circumstances. Pendency of civil suits concerning ownership/title did not affect the rent proceedings, as such questions fell within the jurisdiction of the Civil Court. Finding no illegality or material irregularity in the impugned orders, the

appellate court dismissed the appeal along with pending applications, with no order as to costs.

6. I have heard learned counsel for the parties and perused the record with their assistance.

7. The controversy essentially revolves around the petitioners' failure to comply with the tentative rent order dated 19.09.2025, whereby petitioner No.2 was directed to deposit monthly rent at the rate of Rs.36,000/- with effect from October 2025. The record, particularly the Nazir's report, establishes that no rent was deposited despite clear directions of learned Rent Controller and the lapse of a reasonable period of two months. Admittedly, no restraining order was obtained from this Court against operation of the said order.

8. The plea of the petitioners that no relationship of landlord and tenant existed between petitioner No.2 and respondent No.1, or that petitioner No.2 had been inducted into the premises by petitioner No.1, does not provide a lawful justification for withholding compliance with the tentative rent order. The Rent Controller had already examined the claim of respondent No.1 as a co-sharer on the basis of the City Survey Extract, which was not rebutted by any documentary evidence produced by the petitioners. It is settled that a co-sharer is competent to initiate proceedings against a tenant for protection of his interest in jointly owned property. Furthermore, the pendency of civil litigation concerning ownership, partition or title does not, by itself, suspend the statutory obligation of a tenant to comply with an order passed under Section 16(1) of the Sindh Rented Premises Ordinance, 1979. The proper course available to the tenant was to comply with the tentative rent order and contest the proceedings on merits, rather than disregard the judicial direction altogether.

9. In these circumstances, the Rent Controller was justified in invoking Section 16(2) of the SRPO, 1979, striking off the defence of the defaulting tenant and allowing the ejectment application. Once the statutory default stood established, the Rent Controller was not required to proceed with the trial by framing issues and recording evidence on disputed questions which had become immaterial for determining the consequence of non-compliance. The Appellate Court has also examined the relevant record, considered the rival submissions and assigned cogent reasons for maintaining the orders of Rent Controller. No jurisdictional defect, misreading or non-reading of material evidence, or perversity in the concurrent findings of the two courts below has been demonstrated by the petitioners so as to warrant interference in the constitutional jurisdiction of this Court. It is, however, clarified that the questions relating to ownership, partition and respective proprietary shares of the parties shall remain subject to adjudication

by the competent Civil Court and shall not be deemed to have been finally determined through the rent proceedings.

10. For the foregoing reasons, I find no illegality, material irregularity or jurisdictional infirmity in the impugned judgments and orders warranting interference under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

11. Consequently, the instant constitutional petitions, being devoid of merit, are dismissed. All pending applications, if any, stand disposed of accordingly. There shall be no order as to costs.

JUDGE

Karar_Hussain/PS*