HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Constitutional Petition No.S-577 of 2025

Present: Justice Jawad Akbar Sarwana

Petitioners	:	1) Khalil Ahmed @ Khalil Rehman s/o Ali Muhammad 2) Raja @ Rajkumar s/o Attal Mall Through Mr.Muhammad Saleem Hashmi, Advocate a/w Mr.Zaman Zeb, Advocate
Respondent No.1	:	Ali Nawaz Rind s/o Nehal Khan, Through Mr.Sikander Ali Soomro, Advocate
Respondent No.2	:	Learned Rent Controller, Dadu. Nemo
Respondent No.3	:	Learned Additional District Judge-I, Dadu. Nemo.
For Proforma respondents:		1) Muhammad Afzal s/o Ramzan, 2) Babar Ali s/o Masroor Ahmed, 3) Rahab @ Muhammad Ismial s/o Muhammad Warial and 5) Shafique Ahmed s/o Badruddin. Nemo.
Date of hearing & Short Order	:	**13.11.2025**
Date of Reasons	:	**16.11.2025**

O R D E R

JAWAD AKBAR SARWANA, J: The two petitioners/tenants, namely, Khalil Ahmed @ Khalil Rehman s/o Ali Muhammad ("petitioner no.1-Khalil") and Raja @Rajkumar s/o Attal Mall (petitioner no.2-RajKumar) are aggrieved by the Order dated 16.09.2025 passed by the Ist Additional District Judge, Dadu in Rent Appeal No.01/2025 wherein petitioner/tenant no.1-Khalil was impleaded as "appellant no.5" and petitioner/tenant no.2-RajKumar was impleaded as "appellant no.3". The two petitioners/tenants had preferred the above-mentioned rent appeal u/s 21 of the Sindh Rented Premises Ordinance ("SRPO"), 1979, as they were aggrieved by the Order dated 26.08.2025 passed by the Rent Controller, Dadu, in Rent Execution Application No.03/2025 filed

by the respondent no.1/landlord (Ali Nawaz s/o Nihal Khan Rind). The two petitioners/tenants had filed an application u/s 22 of SRPO, 1979 before the Rent Controller, Dadu, in Execution Application No.01/2021 seeking to recall the order dated 30.06.2025 passed in Rent Execution Application No.01/2021 whereby writ of possession concerning their shop in the demised premises constructed upon City Survey Nos.455 (253-6 sq. yds.) situated in front of Noorani Masjid (Jurial Shah Mosque) on Jurial Shah Masjid Road, WARD-B, Dadu Town, Taluka & District Dadu, was issued in favor of the respondent no.1/landlord (Ali Nawaz Rind). But the Rent Controller, Dadu, dismissed the said application; hence, the two petitioners/tenants preferred the rent appeal mentioned above, which was dismissed. The petitioners/tenants contend that the orders passed by the two forums below are “without lawful authority” and “of no legal effect”, and are hence liable to be set aside under Article 199(1)(a)(ii) of the 1973 Constitution.

2. Heard learned Counsel and perused the record.

3. Briefly, the relevant facts of the matter in hand are that the respondent no.1/landlord (Ali Nawaz Rind), being the landlord, filed Rent Application No.03 of 2020 before the learned Rent Controller, Dadu, seeking ejectment of six opponents/tenants and vacation of the possession of demised premises/shops being defaulters along with arrears of rent from the month of June 2019 till possession. The said Rent Application was allowed with directions to the opponents to vacate the premises in question within 30 days from the date of the order, i.e. 13.02.2021, subject to payment of usual rent and other charges. The six petitioners/tenants, being dissatisfied with the order of the learned Rent Controller, Dadu, preferred the 1st Rent Appeal No.03 of 2021 before the District Judge, Dadu, but the said First Rent Appeal was dismissed vide Judgment dated 10.08.2021 with directions to the six petitioners/tenants to vacate the demised premises within 30

days. The said Judgment of the learned Appellate Court was challenged through Constitution Petition No.S-457 of 2021. On 22.04.2022, in the presence of all parties, this Petition was heard and decided, whereby the Petition was dismissed. It is pertinent to point out that, out of the six petitioners/tenants, Muhammad Afzal s/o Ramzan and Babar Ali @ Masood Ahmed s/o Masroor Ahmed withdrew from the said petition before the passing of the final order dated 22.04.2022, whereas the remaining had no representation and only three petitioners participated in CP No.457/2021, and two out of three of these petitioners/tenants are the two present petitioners/tenants, namely petitioner no.1-Khalil and petitioner no.2-RajKumar.

4. Per Counsel, the Order dated 22.04.2022 passed in CP No.457/2021 was challenged before the Supreme Court in C.P.L.A No.1678/2022, but the same Leave to Appeal was refused vide order dated 12.05.2025. Counsel further submitted that a C.R.P. No.330 of 2025 was again filed in C.P.L.A. No.1678/2022 seeking review of the order dated 12.05.2025, and the same was also dismissed.

5. This writ petition, CP No.S-577/2025 has been instituted on 29.09.2025. The writ of possession in respect of the demised premises was issued on 30.06.2025. This petition impugns the Rent Controller, Dadu, Order dated 26.08.2025 in Rent Execution Application No.03/2025 and the 1st Additional District Judge, Dadu, Order dated 16.09.2025 in Rent Appeal No.10/2025. It is apparent on the face of the record that the objections taken by the two petitioners/tenants were raised after the entire controversy stood settled by the Supreme Court. Indeed, this chronology of the case history clearly reflects a pattern on the part of the two (2) petitioners/tenants and the four (4) proforma respondents, Muhammad Afzal s/o Ramzan, Babar Ali s/o Masroor Ahmed, Rahab @ Muhammad Ismail s/o Muhammad Warial and Shafique Ahmed s/o Badruddin, to collectively and in concert abuse

the process of law to delay and defer, with mala fide intentions, the execution of the judgment and decree passed by the Rent Controller, Dadu in 2021.

6. The petitioners/tenants have pleaded that there is/was a discrepancy in the description of the properties (para 11 (ii) and (iv) of the petition). Additionally, the real owner/landlord of the property is/was not the respondent No. 1/Ali Nawaz Rind, but Muneer Ahmed Mallah, and they had been depositing rent with Mr. Mallah (paragraph 13 of the petition). The impugned judgment of the Appellate Court dated 16.09.2025 has meticulously recorded the objections taken by the petitioner/tenants from time to time. The original petitioners/tenants have contested ejectment proceedings for about five years and had taken the matter even up to the Supreme Court, but at no stage either the two petitioners/tenant or the proforma respondent/tenants raised any plea concerning the description of the property and/or the object that it was a collusive proceeding. Even so, the points agitated in the first round of the ejectment and deemed settled by the Supreme Court cannot be re-agitated in execution proceedings. The final judgment in the ejectment case, having been passed by the Supreme Court affirming the judgment of the High Court, an objection application on the ground of discrepant description of the demised property and/or change of ownership should have been filed before the Supreme Court, particularly as it was a matter allegedly pertaining to 2011, i.e. well before the first round of proceedings up to the Supreme Court. These points cannot be re-argued in 2025. The two lower forums rightly dismissed the objections raised by the two petitioners/tenants and the pro forma respondents, even on merits, as the petitioners/tenants badly failed to establish their plea. This aspect regarding the alleged discrepancy in the description of the demised premises is also well covered in the opening paragraph of page 5 of the impugned Order dated 16.09.2025 passed by the 1st Additional District

Judge, Dadu in Rent Appeal No.10/2025, and I find no reason to interfere with the findings.

7. Given the above, the impugned order did not suffer from any illegality or infirmity and, as such, did not require any interference by the High Court in its constitutional jurisdiction; hence, I dismissed the petition vide my Short Order dated 13.11.2025, and the above are the reasons for the same.

JUDGE

AHSAN K. ABRO