HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Constitutional Petition No.S-420 of 2025

Present: Justice Jawad Akbar Sarwana

Petitioner	:	Muhammad Irshad s/o Abdul Rasheem Nemo.
Respondent No.1	:	Muhammad Afzal Qureshi s/o Abdul Ghani. Nemo.
Respondent No.2	:	Muhammad Sheeraz Qureshi s/o Muhammad Afzal Qureshi. Nemo.
Date of hearing & short order	:	**27.10.2025**
Date of reasons	:	**18.11.2026**

O R D E R

JAWAD AKBAR SARWANA, J.: The petitioner-defendant, Muhammad Irshad s/o Abdul Rashid, has challenged the judgment dated 24.07.2024 passed by the VIth Additional District Judge/ MCAC-II, Hyderabad ("the Revisional Court"), whereby the Civil Revision Application No. 04/2023 filed by the petitioner-defendant was dismissed. The Revisional Court upheld the Order dated 13.11.2023 passed by the Vth Senior Civil Judge, Hyderabad ("the trial Court"), in F.C. Suit No. 1382 of 2022, dismissing the application under Order VII Rule 11 CPC filed by the petitioner-defendant seeking the rejection of the plaint filed by the respondent no.1-plaintiff, Muhammad Afzal Qureshi, in the aforementioned suit. The petitioner-defendant contends in the petition that the impugned judgment dated 24.07.2024 is "without lawful authority and is of no legal effect," because no case was made out in respondent no.1/plaintiff's, FC Suit No. 1382 of 2022. Therefore, in the facts and circumstances of the case, the plaint ought to have been rejected by the trial Court as well as the Revisional Court.

2. The petitioner-defendant instituted this writ in the High Court on 16.10.2024, challenging a judgment announced on 24.07.2024. The matter was listed in Court almost two months later, on 19.12.2024, when the petitioner requested time. Thereafter, it was listed on 13.08.2025 and once again on 27.10.2025. On both dates, no one appeared on behalf of the petitioner, and no intimation was received on his behalf. The record reveals that the petition was being pursued by the petitioner-respondent in person; however, be that as it may, I dismissed the petition by a Short Order dated 27.10.2025, for reasons to be recorded later, and the reasons for dismissal of the petition follow.

3. I have perused the documents available with the petition. It appears that respondent No. 1/plaintiff filed F.C. Suit No.1382/2022 against the petitioner-respondent and others for recovery of rent arrears amounting to Rs.1.4 million, electricity charges amounting to Rs. 1,145,775, gas charges amounting to Rs. 39,600, and water charges amounting to Rs. 18,971 arising out of letting out House No.323, measuring 111 sq.yds., Block-B, Unit 11, Latifabad, Hyderabad ("the Suit Property"). The record shows that the petitioner-defendant filed an application under Order VII Rule 11 CPC, contending that the plaint was liable to be rejected because, in a written statement filed in another suit, namely F.C. Suit No. 886/2018, concerning the same Suit Property as in Suit No.1382/2022, the respondent-plaintiff had allegedly disclosed in his Written Statement that he had executed a sale agreement with the petitioner-defendant and the parties were in the process of transferring the Suit Property to the petitioner-defendant. Therefore, the plaint filed in F.C. Suit No.1382/2022 was liable to be rejected.

4. As per the available record, the subject matter of the respondent No.1-plaintiff FC Suit No.1382/2022 was/is in relation to recovery of arrears of rent as determined by the Rent Court, etc. Whereas, the subject matter of the earlier F.C. Suit No.886/2018, filed

by the petitioner-defendant against the respondent-plaintiff, is seeking a decree of specific performance concerning an agreement executed between the parties for the same Suit Property. Given the foregoing, the two lis are/were entirely different and distinguishable. Furthermore, the issues raised by the petitioner-respondent in defence are/were not relevant grounds for raising a challenge under Order 7 Rule 11 CPC. Clearly, a valid cause of action accrued in favour of the respondent no.1-plaintiff with the passing of the orders of the Rent Controller concerning the arrears of rent, and in the facts and circumstances of the case, the plaint could not be rejected summarily. Having regard to the factual controversy between the parties, the respondent-plaintiff's suit could not be dismissed in limine on legal grounds and/or technicalities, given its foundation was/is based on the order of the Rent Controller; the case for trial and recording of evidence is made out.

5. The Revisional Court and the trial Court dismissed the petitioner-defendant's challenge, and I do not find any illegality and/or irregularity or error in the same given the above reasons. The judgment/order passed by the two lower forums is well-reasoned and cannot be said to be arbitrary, warranting any interference in writ jurisdiction. In view of the above, I found no reason to hold that the impugned order was "without lawful authority" and "is of no legal effect". Therefore, by my Short Order dated 27.10.2025, I dismissed the petitioner, and the above are the reasons for the same.

JUDGE

AHSAN K. ABRO