

Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI

C.P. No.S-982 of 2025

[Muhammad Riaz v. Muhammad Ishtiaq and others]

Petitioner	Through Mr. Muhammad Imran, Advocate.
Date of Hearing:	22.10.2025.
Date of Order:	22.10.2025.

ARSHAD HUSSAIN KHAN, J.- Through instant constitutional petition, the petitioner has challenged the order dated **23.08.2025**, passed by learned IX-Additional District Judge, Karachi, West/Model Civil Appellate Court in First Rent Appeal No.45 of 2025, whereby the appeal was dismissed and the ejectment order dated **03.03.2025**, passed by the learned XIV- Rent Controller, Karachi (West) in Rent Case No.30 of 2023, filed by respondent No.1, was maintained. Both the said orders collectively shall hereinafter be referred to as the “**impugned orders**”.

2. **Concisely**, the respondent/applicant, as owner of House No.189/1 (Old No.5J/200), Saeedabad, Baldia Township, Karachi, rented the first floor thereof (demised premises) to the petitioner through an agreement dated 01.01.2020 at a monthly rent of Rs.12,000/-, excluding utilities, with a 10% annual increase clause. The petitioner paid rent until June 2021 but thereafter neither enhanced nor paid rent, committing default. The respondent required the premises for the bona fide residential need of his married sons due to insufficient space in his house and, after issuing a legal notice dated 12.03.2022, demanding arrears and possession, filed Rent Case No.30 of 2023 under Section 15 of the Sindh Rented Premises Ordinance, 1979 for eviction on grounds of default and personal need. **In response**, the petitioner/opponent filed a written statement denying the existence of any landlord-tenant relationship and alleging that the tenancy agreement relied upon by the applicant was forged and fabricated. He claimed to have purchased the property from the respondent/applicant on 01.01.2020 and further contended that he was in Brazil from 26.04.2019 to 28.02.2020, making it impossible for him to have executed the alleged tenancy agreement. It was also asserted that the opponent had filed Civil Suit No.140 of 2023 over ownership, and the rent case was filed by the applicant as a counterblast. He maintained that the rent case was not maintainable and liable to be dismissed with costs.

The learned Rent Controller thereafter framed issues, recorded evidence from both sides, and upon conclusion of the proceedings, allowed the ejectment application. The petitioner/opponent was directed to vacate the

demised premises within forty-five (45) days from the date of the impugned order i.e., 03.03.2025.

3. **The petitioner/opponent, being aggrieved** by the order of the learned Rent Controller, Karachi (West), preferred First Rent Appeal No.45 of 2025 before the IX-Additional District Judge, Karachi (West). Although the appeal was admittedly barred by limitation, the learned Appellate Court, after providing both parties an opportunity of hearing, proceeded to decide the matter on merits and dismissed the same, vide order dated 23.08.2025. Since the appellate court examined the matter on merits, this Court has also considered it in supervisory review to avoid any technical omission. The petitioner now challenges the concurrent findings rendered by the two courts below under Article 199 of the Constitution.

4. **Learned counsel for the petitioner has argued** that the impugned orders of both courts below are erroneous in law and fact and thus liable to be set aside. He has contended that the courts have failed to properly appreciate the evidence and misread the material facts, leading to findings contrary to law. It has been argued that the petitioner is a *bona fide* purchaser of the demised premises under an agreement to sell dated 01.01.2020, and that Civil Suit No.140 of 2023 filed for its specific performance was dismissed only for non-deposit of balance sale consideration, against which Appeal No.273 of 2023 is pending. He has contended that the respondent filed the rent case as a counterblast, relying on a false and fabricated tenancy agreement of the same date. It has further been argued that the petitioner was in Brazil from 26.04.2019 to 28.02.2020, making execution of the alleged tenancy agreement impossible. He has maintained that the courts below have failed to consider the pending appeal and acted contrary to law, rendering the impugned orders perverse and unsustainable.

5. Heard learned counsel for the petitioner, perused the record and the relevant law.

The petitioner's foremost plea is that no jural relationship exists between the parties and that he is, in fact, the owner of the demised premises by virtue of a sale agreement dated 01.01.2020 (as stated in the written statement), whereas during evidence he claimed that the agreement was executed on 01.04.2020 between the respondent being vendor and himself being vendee. He has further alleged that the rent case was founded on a false and fabricated tenancy agreement, contending that its execution was impossible since, at the relevant time, he was outside Pakistan and was not present in the Country.

6. The petitioner's arguments have been examined in light of the available record, but his contentions regarding the absence of a landlord-tenant relationship and ownership based on an alleged sale agreement find no support in the evidence or established legal principles. It is a settled proposition that a tenant claiming ownership must first surrender possession, pursue civil proceedings before a competent forum, and, upon success, regain possession lawfully. In the present case, the petitioner neither vacated the premises nor substantiated his ownership claim through a competent adjudication¹.

Moreover, the civil suit filed by the petitioner has already been dismissed, and although counsel asserts that an appeal is pending, no document or detail has been produced to confirm its status. Even if the petitioner ultimately succeeds in that appeal, he may recover possession only pursuant to a valid court decree and not by withholding the premises under a disputed claim of ownership.

It is also a settled proposition that a person who is in possession or occupation of the premises belonging to another, even if he does not expressly agree to pay rent, is bound in law to pay rent as consideration for such occupation. Such a person is deemed a tenant within the meaning of the Sindh Rented Premises Ordinance, 1979.² Likewise, any person who occupies premises without setting up a legally adverse title is, by fiction of law, treated as a tenant.³

7. From the record, it appears that the learned Rent Controller, after framing the necessary issues and evaluating the evidence in detail, rendered well-reasoned findings supported by the material on the record. It was held that the respondents/applicants successfully proved their case through both oral and documentary evidence, establishing default as well as *bona fide* need. Consequently, the ejectment application was allowed, and the appellate court, upon independent assessment, upheld the said findings and maintained the eviction order.

8. Insofar as the petitioner's plea that the tenancy agreement was false and fabricated on the ground that he was not present in Pakistan at the

¹ *Muhammad Nisar v. Izhar Ahmed Shaikh and others* [PLD 2014 SC 347] *Nasir Khan v. Nadia Ali Butt and others*, [2024 SCMR 452]

² *Muhammad Shabbir v. Hamed Begum* [1992 MLD 323]

³ *Saifullah and another v. Chaudhry Ghulam Ghous* [2000 CLC 1841]

relevant time is concerned, he has failed to substantiate this claim through any credible evidence. No travel documents or corroborating witnesses were produced to support his assertion. In the absence of such proof, the petitioner's contention appears to be frivolous and malafide, and thus, not sustainable in the eyes of law.

9. It is a settled principle of law that the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan is supervisory in nature and not appellate. While exercising such jurisdiction, the High Court does not sit as a court of appeal to re-appraise the evidence or substitute its own findings for those concurrently recorded by the courts below, except where the impugned findings suffer from lack of jurisdiction, manifest illegality, perversity, or have been passed without lawful authority resulting in miscarriage of justice. The Supreme Court has consistently held that the right of appeal is a statutory right and not an inherent one, and in the absence of any provision for a second appeal, the findings of the appellate court on factual matters attain finality and are not open to interference in constitutional proceedings.⁴

10. Having examined the case in light of the settled legal principles, this Court finds that the concurrent findings of the courts below are based on sound appreciation of evidence and suffer from no jurisdictional or legal defect justifying interference in constitutional jurisdiction. Consequently, this petition, being devoid of merit, is dismissed *in limine*.

JUDGE

jamil**

⁴ *M. Hamad Hassan v. Mst. Isma Bukhari* [2023 SCMR 1434]