

ORDER SHEET

IN THE HIGH COURT OF SINDH KARACHI

CONST. PETITION NO.S-425 OF 2022

Tariq Akhter....vs...Furqan Hussain & Ors.

Const. Petition No.S-426 of 2022

Sabaz Ali Khanvs...Furqan Hussain & Ors.

Const. Petition No.S-427 of 2022

Ahsan Yousuf....vs...Furqan Hussain & Ors.

Const. Petition No.S-428 of 2022

Ghulam Jaffer....vs...Furqan Hussain & Ors.

Const. Petition No.S-429 of 2022

Akhtar Ali....vs...Furqan Hussain & Ors.

Const. Petition No.S-430 of 2022

Mumtazvs...Furqan Hussain & Ors.

Const. Petition No.S-431 of 2022

Salahuddin....vs...Furqan Hussain & Ors.

Const. Petition No.S-432 of 2022

Syed Abdul Qayoom....vs...Furqan Hussain & Ors.

Const. Petition No.S-433 of 2022

Sargodha Daree Store....vs...Furqan Hussain & Ors.

Const. Petition No.S-434 of 2022

M. Yousuf Chohan....vs...Furqan Hussain & Ors.

Const. Petition No.S-435 of 2022

Abdul Rasheed....vs...Furqan Hussain & Ors.

Date of hearing and decision 18.11.2025.

M/S Ms. Irum Rasheed, Advocate & Mr. Zahid Farooq Mazari,
Advocate for Petitioner (In all petitions)

Mr. Naeem Suleman, Advocate for Respondents in all petitions.

Mr. Ali Safdar Deepar, Assistant Advocate General Sindh.

ORDER

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Mr. Nisar Ahmed Bhanbhro, J. Since a common question of law and facts is involved in all above captioned petitions, the same are being disposed of through this common order. Though the Rent Cases and First Rent Appeals were decided through separate orders passed on same day, but perusal of record revealed that all the rent cases were filed on a common ground of default in payment of rent, common reply was filed and evidence in all the case was similar in nature.

2. Through these petitions, the petitioners have challenged concurrent findings of the court below. Rent Case (RC) No 271 of 2019 (Re Furqan Hussain Vs. Tariq Akhtar), RC No 262 of 2019 (Re Furqan Hussain Vs. Sabz Ali), RC No 260 of 2019 (Furqan Hussain Vs. Ahsan Yousuf), RC No 269 of 2019 (Furqan Hussain Vs. Ghulam Jaffar through legal heirs), RC No 271 of 2019 (Furqan Hussain Vs. Akhtar Ali) RC No 261 of 2019 (Furqan Hussain Vs. Shaikh Murtaza), RC No 265/2019 (Furqan Hussain Vs. Salahuddin), RC No 263 of 2019 (Furqan Hussain Vs. Syed Abdul Qayoom) RC No 268 of 2019 (Furqan Hussain Vs. M/s Sargodha Daree Store), RC No 264 of 2019 (Furqan Hussain Vs. M. Yousuf Chohan) and RC No 270 of 2019 (Furqan Hussain Vs. Abdul Rasheed) filed by the Respondent/Landlord Furqan Hussain for ejection of Petitioners from demised premises were allowed vide order dated 24.08.2021. First Rent Appeal (FRA) No 161 of 2021 (Tariq Akhtar Vs Furqan Hussain), FRA No 162 of 2021 (Sabz Ali Vs Furqan Hussain), FRA No 164 of 2021 (Ahsan Yousuf Vs Furqan Hussain), FRA No 168 of 2021 (Ghulam Jaffar through legal heirs Vs Furqan Hussain), FRA No 171 of 2021 (Akhtar Ali Vs Furqan Hussain) FRA No 174 of 2021 (Shaikh Murtaza Vs Furqan Hussain), FRA No 169 of 2021 (Furqan Hussain Vs. Salahuddin), FRA No 173 of 2021 (Syed Abdul Qayoom Vs Furqan Hussain), FRA No 176 of 2021 (M/s Sargodha Daree Store Vs Furqan Hussain), FRA No 175 of 2021 (M. Yousuf Chohan Vs Furqan Hussain) and FRA No 172 of 2021 (Abdul Rasheed Vs Furqan Hussain) filed by the Petitioners before the appellate Court were dismissed vide judgment dated 30.03.2022.

3. It is the case of the petitioners that they are the tenants of deceased landladies namely Mst. Kulsoom Bai, Mst. Haseena Bai and Mst. Zaib-un-Nisa. Petitioners were in possession of tenement premises named as Amina Manzil constructed on Plot No NP - 7/5, Old Market, River Road Karachi

since under tenancy agreement with original owners. Petitioners regularly paid rent to the landladies without any default. The dispute as to payment of rent arose when all the landladies (who were sisters inter se and issueless) passed away in the year 2014. Petitioners paid the rent to respondent Furqan until 2018 since the death of landladies, however, discontinued the same in year 2018 when one Abdul Sattar claimed that rent should be paid to him. The Petitioners' failure to deposit rent amount prompted Respondent Furqan to initiate ejectment proceedings under section 15 of the Sindh Rented Premises Ordinance 1979 (SRPO) on the ground of default.

4. Mr. Zahid Farooq (Mazari) and Ms. Irum Rasheed, learned counsel for the petitioners in all the captioned petitions contended that rent applications were misconceived and bad under the law. Petitioners were not the tenants of Respondent Furqan. They argued that landladies died issueless and Respondent Furqan was not the legal heir of deceased landladies. They further argued that Respondent Furqan sought ownership rights in the demised premises on the basis of relinquishment deed in year 2019. They further argued that no notice of change of ownership as required under section 18 of the SRPO was served upon Petitioners. They argued that ejectment was sought on the sole ground of default in rent amount. They argued that Petitioners never defaulted in payment of rent, however when dispute of heirship and inheritance arose within family, petitioners started depositing rent in court. They contended that Petitioners had established business in the demised premises since last many decades and they would suffer heavily if ejected. They argued that Petitioners were paying the rent and other utility dues regularly and there was no evidence of willful default against Petitioners, therefore, the ground of ejection was not available to the Respondent. They argued that the impugned order and judgment were result of misreading and nonreading of the evidence, which surfaced and was evident on record, therefore this was a fit case for interference by this Court. Lastly, they prayed to allow the petition.

5. Mr. Naeem Suleman, learned counsel for the respondent in all these petitions, contended that the respondent and his brother were the sole owners of demised premises by virtue of relinquishment deed. He argued that petitioners, being tenants, cannot dispute the title. He further contended

that Court of Rent Controller was not required to enter into niceties of claim as to ownership. He argued that petitioners had been paying rent continuously from 2014 to 2018 to Respondent without disputing his entitlement, as such, they cannot deny payment of rent to Respondent and earlier conduct of Petitioners to pay rent after the demise of original owners operated as an estoppel against them. He argued that Petitioners deliberately and intentionally avoided to pay rent with an intention to occupy and usurp the demised premises. He argued that Learned Courts below after proper appraisal of evidence allowed ejection application. He argued that there were concurrent findings of fact rendered by courts below, which cannot be disturbed by this Court under its writ jurisdiction. He prayed to dismiss the petitions.

6. Heard arguments and perused the material available on record.

7. Scanning of the record revealed that petitioners were tenants in possession of tenements through tenancy agreement with deceased landladies. Petitioners paid rent amounts to the landladies until death of Mst. Haseena Bai, the last survivor landlady, who passed away in year 2014. After the death of Haseena Bai, tenants continued to pay rent regularly until 2018 to respondent Furqan, for which receipts were issued in the names of landladies, as evidenced from record. The payment of rent was discontinued on the account that original owners passed away leaving behind no legal heirs in the first lineal descendancy, Respondent Furqan was not owner of demised premises and one Abdul Sattar claimed ownership of premises and demanded payment of rent to him.

8. It further transpires, that on change of ownership in favor of Respondent Furqan through relinquishment deed in year 2019, no notice as required under section 18 of SRPO was sent to the Petitioners. Record further established that relinquishment deed in favor of Respondent Furqan was still in field and was not a disputed document. For the sake of convenience Section 18 of SRPO, 1979 is reproduced below:

18. Change of Ownership - Where the ownership of a premises in possession of the tenant has been transferred by sale, gift, inheritance

or by such other mode, the new owner shall send an intimation of such transfer in writing by registered post to the tenant and the tenant shall not be deemed to have defaulted in payment of the rent for the purpose of clause (ii) of sub-section (2) of section 15, if the rent due is paid within thirty days from the date when the intimation should, in normal course, have reached the tenant."

9. From the perusal of the above-referred law, it is clear that on change of ownership the new owner shall send such intimation of transfer in writing by registered post to the tenant and tenant shall not be deemed to have defaulted in payment of rent for the purpose of clause (ii) of sub section (2) of section 15 of the SRPO, if the rent due is paid within 30 days from the date on which the same became payable. Section 18 of SRPO protected the rights of tenants on change of ownership. Admittedly, no notice of change of ownership was ever issued to tenants/petitioners, when the relinquishment deed was prepared, nor was any document confirming the heirship of deceased landladies was sent to the petitioners to enable them to contact the new owners and pay rent regularly. Petitioners therefore deposited rent in the court seized with interpleader suit. In the present case, since Petitioners were paying the rent to Respondent Furqan during the life time of landladies and until 2018 after their death as such discontinuation of rent was not justified. As far as the issue of intimation through notice as required under section 18 of SRPO was concerned the same stood fulfilled on institution of rent proceedings and it was sufficient notice to the parties intimating them of change of ownership.

10. Reliance in this regard is placed on the case of Alay Javed Zaidi Vs. Habibullah and others reported as **2024 S C M R 781 wherein Honorable Supreme Court of Pakistan has held that**

14. It is a settled proposition of law that even institution of application for eviction would be deemed to be substantial compliance of the provisions of Section 18 of the SRPO, 1979. Reference in this regard may be made to the case of Syed Azhar Imam Rizvi v. Mst. Salma Khatoon (1985 SCMR 24), wherein it has been held that the receipt of the copy of the ejectment application and knowledge gained thereby would

constitute due notice and it will have to be treated as substantial compliance of section 13-A of the Ordinance."

15. In the same vein, the institution of application for fair rent by Respondent No.1 can be deemed to be a sufficient intimation to the petitioner regarding change of ownership in respect of subject tenement. In view of this, petitioner's contention that he had no information regarding change of ownership cannot sustain.

Note: Section 13-A of the West Pakistan Urban Rent Restriction Ordinance, 1959 is pari materia to section 18 of the Sindh Rented Premises Ordinance, 1979.

11. Respondent Furqan filed ejectment application on the ground that petitioners in all these petitions who were tenants failed to pay rent from July 2018 till the institution of rent applications. Since the only question involved in present litigation was the default in payment of rent, which from the conduct of the petitioners does not appear to be malafide in nature. Admittedly, the landladies were issueless and survived by no legal heirs in first lineal descendency in knowledge of petitioners, petitioners paid rent after the death of landladies and discontinued to pay Respondent Furqan when a demand was made from another person, thus petitioners approached Court of law and deposited rent in the interpleader suit. From paragraph No 19 of the judgment dated 30.03.2022 passed by learned appellate court and findings of Learned Rent Controller on point No 2 it reflects that Petitioners have deposited the rent amount of alleged default period before the court in the interpleader, however learned courts below disputed the mode of payment as it was contrary to the provisions of section 10 of SRPO. Section 10 of SRPO lays down certain conditions of payment of rent but this provision will attract in the cases when the landlord was a definite person and efforts were made to pay rent to him but he refused. But in the instant case the landladies died issueless and there was no legal heir in their lineal descendance, thus issue of ownership was yet to be determined by the competent court of law. Petitioners demonstrated goodwill, bonafides, willingness and readiness to pay the rent. This aspect can be assessed from the fact that rent amount of the alleged default period was already deposited in the court, provisions of section 10 of SRPO thus will not be attracted in the present case. It further transpires from the record that during pendency of

rent application, respondent Furqan filed an application under Section 16 for deposit of arrears of rent, which was granted and subsequent thereto, the petitioners, without any loss of time, deposited the arrears of rent in Court, which demonstrated their bonafides. As such, the ground of default envisaged under clause (ii) of sub-section (2) of Section 15 of the SRPO, 1979 was not available to the respondent for seeking ejectment of the petitioners.

12. No doubt the findings in the present case are concurrent in nature, and this Court, in its supervisory jurisdiction, rarely interferes with concurrent findings of fact. However, it unhesitatingly steps in when such findings are the result of non-reading or misreading of evidence, which from the reappraisal of the evidence surfaced in the instant case.

13. In the wake of aforementioned reasons, a case for the exercise of powers of judicial review conferred under Article 199 of the Constitution of Pakistan, 1973, is made out. Consequently; the Petitions are allowed. Order dated 24.08.2021 passed by Learned Rent Controller / Vth Senior Civil Judge Karachi South in Rent Case (RC) No 271 of 2019 (Re Furqan Hussain Vs. Tariq Akhtar), RC No 262 of 2019 (Re Furqan Hussain Vs. Sabz Ali), RC No 260 of 2019 (Furqan Hussain Vs. Ahsan Yousuf), RC No 269 of 2019 (Furqan Hussain Vs. Ghulam Jaffar through legal heirs), RC No 271 of 2019 (Furqan Hussain Vs. Akhtar Ali) RC No 261 of 2019 (Furqan Hussain Vs. Shaikh Murtaza), RC No 265/2019 (Furqan Hussain Vs. Salahuddin), RC No 263 of 2019 (Furqan Hussain Vs. Syed Abdul Qayoom) RC No 268 of 2019 (Furqan Hussain Vs. M/s Sargodha Daree Store), RC No 264 of 2019 (Furqan Hussain Vs. M. Yousuf Chohan) and RC No 270 of 2019 (Furqan Hussain Vs. Abdul Rasheed) and order dated 30.03.2022 passed by the Court of Learned Additional District Judge XII South in First Rent Appeal (FRA) No 161 of 2021 (Tariq Akhtar Vs Furqan Hussain), FRA No 162 of 2021 (Sabz Ali Vs Furqan Hussain), FRA No 164 of 2021 (Ahsan Yousuf Vs Furqan Hussain), FRA No 168 of 2021 (Ghulam Jaffar through legal heirs Vs Furqan Hussain), FRA No 171 of 2021 (Akhtar Ali Vs Furqan Hussain) FRA No 174 of 2021 (Shaikh Murtaza Vs Furqan Hussain), FRA No 169 of 2021 (Furqan Hussain Vs. Salahuddin), FRA No 173 of 2021 (Syed Abdul Qayoom Vs Furqan Hussain), FRA No 176 of 2021 (M/s Sargodha Daree Store Vs Furqan Hussain), FRA No 175 of 2021 (M. Yousuf Chohan Vs Furqan Hussain) and

FRA No 172 of 2021 (Abdul Rasheed Vs Furqan Hussain) stand set aside. The Rent Cases filed by Respondent Furqan Hussain against the Petitioners are dismissed. The petitioners shall retain the possession of tenement premises and shall continue to pay rent to respondent Furqan as they have been paying in the past. However, respondent Furqan shall be at liberty to institute fresh proceedings if the petitioners failed to pay the rent continuously or on any other ground available under the SRPO. if respondent Furqan refused to receive the rent, same shall be deposited before the concerned Court of Rent Controller and the receipt whereof shall be sent to Respondent Furqan through courier or electronic modes.

14. The petitions stand disposed of in the above terms along with all pending applications. Office is directed to place the signed copy of the order in connected petition.

JUDGE

Karachi

Dated: 18.11.2025

Approved for reporting