

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Const. Petition No. S-607 of 2023
Nazeer Ahmed Solangi – v – Muhammad Akber Dars

Date	Order with signature(s) of Judge(s)
Hg: Priority.	

- 1. For orders on office objections.
- 2. For hearing of Misc. No.4553/23
- 3. For hearing of main case.

21.11.2025.

Mr. Jameel Ahmed Channer, Advocate for the Petitioner.
Mr. Lala Asad Mangi, Advocate for Respondent No.1.

Nisar Ahmed Bhanbhro, J. It is the case of the petitioner that he purchased the demised premises through an agreement to sell in the year 2007 and has been occupying the shop as its owner. The learned courts below failed to appreciate this aspect of the case and ordered his ejectment on the ground of default in payment of rent. The Rent Controller allowed the rent application vide order dated 11.08.2021 in Rent Case No. 01 of 2017, and the rent appeal filed by the petitioner was dismissed vide judgment dated 11.05.2023.

2. Learned counsel for the petitioner contended that the relationship of landlord and tenant between the petitioner and respondent No. 1 could not be established; therefore, the Rent Controller had no jurisdiction to entertain the rent case. He further contended that the demised premises were purchased by the petitioner in the year 2007 through a Sale Agreement, and for enforcement of said Sale Agreement, the petitioner filed a suit which was dismissed by the court below vide judgment dated 25.10.2023. The petitioner has preferred a second appeal before this Court, which is pending adjudication. Until the dispute regarding title is resolved, the ejectment proceedings cannot be held against the petitioner. He prayed that the proceedings in the present matter be stayed till the final conclusion of the said second appeal.

3. Learned counsel for the respondent contended that the agreement to sell was entered into in 2007, but the petitioner failed to fulfill the contract; therefore, the said agreement to sell was cancelled in 2010. He further argued that civil proceedings were initiated for the enforcement of the said agreement, but Suit No. 956 of 2018 and Appeal No. 115 of 2023 were dismissed by the courts below after a full-fledged trial. He further contended that the findings of fact in favor of the respondent/landlord demonstrate that he is the owner of the property and that the petitioner was possessing the demised premises as a tenant. He also argued

that since 20.06.2016, the petitioner has been in default in the payment of rent, and despite of service of two legal notices, he failed to deposit the rent. Moreover, he did not come forward during the rent proceedings to deposit the arrears of rent, which amounts to Rs.2,38,000/-. He argued that there is no illegality or infirmity in the impugned orders, and that the petition is misconceived and may be dismissed.

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

5. From perusal of record it transpired that the petitioner and the respondent entered into an agreement to sell in the year 2007, which was cancelled in 2010. The petitioner filed a suit for specific performance for enforcement of the said agreement in 2018, which was dismissed on merits after a full trial. Since the agreement to sell was executed in 2007, the petitioner was required to seek enforcement of his rights within a reasonable time, which he failed. There were concurrent findings of fact in favor of the respondent/landlord by the two courts below, affirming his ownership of the demised premises. The petitioner claimed that he was the owner of the property; however, he was required to prove beyond a reasonable doubt that he was not a tenant but the landlord, which he failed to discharge. Under Section 15 of the SRPO, 1979, a time limit is provided for payment of rent, and in case of default, the landlord is entitled to initiate ejectment proceedings. It is also not denied that, prior to initiating ejectment proceedings, two legal notices were served upon the petitioner to cure the default, but without fruit. Moreover, petitioner did not offer to pay the default amount during the ejectment proceedings as required under Section 15(2)(ii) of SRPO, 1979 thus his default stood established.

6. Since there are concurrent findings of fact, this Court, in its writ jurisdiction, sparingly interferes with such findings and does so only where there is misreading or non-reading of the evidence apparent on record. Petitioner has failed to demonstrate any illegality or infirmity in the concurrent findings of fact by the courts below calling for indulgence of the court.

7. For the aforesaid mentioned reasons this petition fails and is accordingly dismissed. This order will not affect the proceedings between the parties for enforcement of agreement to sell before any other Court of law.

8. A copy of this order shall be sent to the Court of District Judge Malir, Karachi for information.

JUDGE

Karachi.

Dated: 21.11.2025.

Approved for reporting.