

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. S-1191 of 2025
'Muhammad Asim Zafar Soleja v. Muhammad Jawid and another'
And
Constitutional Petition No. S-1192 of 2025
'Muhammad Anas Zafar Soleja v. Muhammad Jawid and another'

Mr. Sajjad Hussain Zuberi, Advocate for petitioners in both petitions.
Mr. Faisal Aziz Advocate for Respondent no.1 in both petitions.
Mr. Shariq Mubashir, AAG

Date of Hearing: 27.04.2026
Date of Judgment: 25.05.2026

JUDGMENT

MUHAMMAD HASAN AKBER, J: These two petitions are being decided through this consolidated Judgment, due to commonality of the issues, the parties, the subject matter, the evidence, the rent proceedings and the appellate proceedings therein. Both petitions arise from the impugned Orders of the same date, 13.10.2025 [**impugned Orders**] passed by the learned Rent Controller-X, Karachi East, in Rent Case Nos.132/2024 and 133/2024.

2. Succinct facts are that Petitioners are tenants of Respondent No.1 in Shops No.1 and 2, Ground Floor, Mairaj Manzil, constructed on Plot No. C-11, Block-3, Central Commercial Area, Bahadurabad, Karachi [**demised premises**]. The Respondent No.1 [**landlord**] filed Rent Cases No.132/2024 and 133/2024 along with applications under Section 16(1) of the Sindh Rented Premises Ordinance, 1979 [**SRPO**] before the learned Rent Controller-X, Karachi East, praying directions to the petitioners to deposit arrears of rent, allegedly due from March 2023. In their counter affidavits, the petitioners contended that based upon other transactions between the parties and upon specific instructions from Respondent No.1 and with his full knowledge, they had been regularly paying rent to one Mr. Adeel Soleja, claimed to be a relative of Respondent No.1, and documentary evidence of such payments is available with them. In this regard, some dispute also arose between the parties, which was resolved through the intervention of mutual friends/ elders, and such a decision/resolution is also on record. The landlord denies all such contentions. Vide earlier Order dated 07.11.2024 under section 16(1) SRPO, learned Rent Controller directed the Petitioners to deposit future monthly rent on or before the 10th day of each month, while pending the question of arrears for decision after recording of evidence from both sides. The landlord challenged such Order under section 16(1) before this Court in earlier Constitutional Petitions No.S-1377 and S-1378 of 2024, which was disposed of vide Judgment dated 04.08.2025, whereby the earlier rent Order dated 07.11.2024 was set

aside, and the matter was remanded to the learned Rent Controller with a direction to decide the application in terms of the discussion made in the said Judgment.

3. After remand, the learned Rent Controller took up the matter afresh and, after noting the admitted position of tenancy and the disputed question of rent arrears from March 2023, through the impugned Order dated 13.10.2025, held that payment of rent to a third party is not recognised in law in the absence of any written agreement or instruction. The Controller further directed the Petitioners to deposit within a period of 30 days, respectively, Rs.9,600,000/- in Rent Case No.132/2024 and Rs.1,920,000/- in Rent Case No.133/2024, as arrears calculated @ Rs. 300,000/- per month and Rs. 60,000/- per month, respectively, for 32 months from March 2023. Petitioners were further directed to deposit future monthly rent on or before the 10th of each English calendar month from November 2025 onwards. The said Order has been assailed in these petitions. The tenants have annexed copies of the ledgers in both Rent cases, to depict that the monthly rent is regularly being deposited since 10.12.2024 in compliance with the earlier rent Order passed by the learned Controller. However, their main grievance is with respect to the directions to deposit a huge sum of arrears of rent of more than a crore rupee, regarding which they claim that they have already paid all such amounts and which they can fully establish through documentary evidence, copies whereof have also been filed with the instant petition and with the Rent Controller.

4. Heard and perused.

5. The primary grievance of the Petitioners is that the learned Rent Controller, despite categorical direction of this Court to decide the question of arrears in the light of principles discussed in the said Judgment, proceeded to determine the entire question of arrears summarily on the face of the record, without conducting any formal inquiry and without affording the Petitioners a meaningful opportunity to prove their plea of payment which included documentary evidence. The second concern of the petitions is that the impugned Order was passed without first determining the agreed rate of rent, which was genuinely disputed between the parties.

6. The power of an appellate Court to remand a case is founded in Rules 23 to 26 of Order XLI of the Civil Procedure Code 1908. Rule 23 deals with the reversal by the appellate Court of a decision of the trial Court on a preliminary issue; Rule 24 empowers the appellate Court to decide the matter where evidence on record is found sufficient; whereas Rule 25 deals with the appellate Court's powers to frame an issue and remand the case to the Court, which had omitted to frame or try the Issue. The procedure to handle the proceedings recorded on the fresh issues framed under Rule 25, is provided under Rule 26.

7. The Honourable Supreme Court in *Jameel Ahmad's case*¹ has settled that once a matter is remanded with certain directions, then the scope of the dispute is limited, which has to be resolved by the trial Court only to the extent of the remand Order and that the Court, trying a *lis* after remand, has to regulate the proceedings in terms of the Order of remand passed by a higher forum.

8. The ratio settled in *Mst. Jamila and others*² by the Sindh High Court, is that if a matter had been simply remanded without any directions, other issues could be agitated; however, once a matter was remanded with certain directions, the scope of the dispute was limited to resolving the matter only to the extent of the remand order.

9. In the cases of *Shamsdin Hingorjo*³ of this High Court and *Shree Champalal Kothari Trust* in the Indian jurisdiction, it is held that a remand order is confined to a narrow compass so that the dispute would be completed without unnecessary delay. Remand of this nature does not wipe out earlier proceedings; it only permits the trial Court to fill in the gaps identified by the appellate forum. When the appellate Court restricts the remand, the trial court has a duty to remain within those limits. Once an appellate forum has given a clear and specific direction, the learned trial court must carry out such direction as mandated.

10. In *International Auto Parts, Karachi*⁴ it was observed that where a remand order was passed by the High Court on merits, but the Labour Court, instead of following the directions of the High Court, tried to find fault with the same, such an approach was unwarranted.

11. In the present case, the matter was remanded by this Court to the learned Rent Controller with clear directions, **“to the learned Rent Controller to decide the application preferred by the Petitioner afresh, in light of principles laid down hereinabove.”** Nevertheless, perusal of the impugned Order makes it clear that a formal, detailed Inquiry was not held, as was intended in the remand Order, but the applications were again decided based merely on the same contentions raised by parties as were raised earlier. The order is also silent on the documents relied upon by the parties, nor was the decision of resolution of the dispute considered. The purpose of the remand by this Court was to allow the parties an opportunity to put their specific factual claims before the learned Controller, that earlier rent was already paid by them, but as per instructions and by consent of the landlord, to his cousin/ the third person. Such an approach is fundamentally at odds with the earlier directions in the earlier Judgment dated 04.08.2025, which was passed specifically in the matter arising from the very same rent case. Whether the Petitioners were indeed instructed to pay rent to Adeel Soleja; whether such amounts were actually paid by the tenants, and whether such instructions were given by or with the knowledge of the Respondent No. 1 or anyone authorised by him, are complicated questions of fact which have not been discussed or resolved. The learned Rent Controller directly proceeded to accept the Respondent No.1's same version on the question of arrears, as was accepted earlier on the sole premise that there was no written agreement

1. *Jameel Ahmed v. Saifuddin* (PLD 1994 SC 501.)
2. *Mst. Jamila and 3 others v. Muhammad Iqbal and 2 others* (2015 YLR 120)
3. *Shamsdin Hingorjo (since deceased) through legal heirs v. Kamaluddin and others* Judgment dated 15.04.2026 passed by High Court of Sindh in IInd Appeal No. S-133 of 2025; *Shree Champalal Kothari Trust and others vs. The State of Maharashtra and others.* Judgment dated 10.11.2025 by the High Court of Bombay in W.P. 2210 of 2021.
4. *International Auto Parts, Karachi v. Sindh Labour Court No.3* (2000 PLC 389)

or written instruction authorising payment of rent to Adeel Soleja. The next contention of the Petitioners is that the learned Rent Controller, without any credible evidentiary basis, accepted the rate of rent @ Rs.300,000/- per month in Rent Case No.132/2024, and Rs.60,000/- per month in Rent Case No.133/2024 and directed the tenants to deposit arrears computed at those rates. The Petitioners denied them, and the question of the agreed rate of rent was itself a disputed question of fact, which does not find determination in the rent order. The positive aspect is that since the earlier Rent Order, the tenants have been depositing the rent regularly, as claimed by them.

12. As to maintainability of these petitions, suffice it to say that reliance on the cases of **Mst. Zahida Parveen and others**⁵ and **Zahid Khan**⁶ were made by the landlord himself in the earlier petitions filed by him against the first rent Order in the same rent proceedings, and which were allowed vide the earlier Judgment directing remand of the matter.

13. The Respondent's reliance on the case of **Bahadur Khan and others**⁷ at this stage, with due reverence, is completely misconceived and distinguishable because in that case, the Honourable Supreme Court decided the petition while considering section 13(6) of the West Pakistan Urban Rent Restriction Ordinance 1959, after conclusion of a complete trial and evidence of both the parties was recorded. On the contrary, in the present case, the determination of two complex questions of fact was made by the learned Rent Controller at an interlocutory stage, and that too, in deviation and without compliance with the remand Order passed by this Court in earlier petitions, which specifically directed the learned Controller to allow an opportunity of evidence to the parties. Had a detailed formal inquiry been made by the learned Controller, both the issues *qua* payment of rent to the third-party and the agreed quantum of rent would have been decided by now.

14. In **Saltanant Khan's case**⁸ it was concluded that the trial court is strictly bound to follow the directions issued to it by the appellate court while remanding the case, and the Trial Court cannot exceed the boundaries of a limited remand Order. The learned Courts below had rightly held concurrently, that framing of new/ additional issues at this stage would amount to derailing the directions of remand by the learned Appellate Court.

15. For the reasons recorded above, being in failure to exercise jurisdiction, make it a fit case for the exercise of writ jurisdiction under Article 199 of the Constitution of Pakistan 1973. Consequently, both these petitions are partly allowed; the impugned Orders dated 13.10.2025 passed by the learned Rent Controller-X, Karachi East, in both Rent Cases Nos.132/2024 and 133/2024 are partly set aside, with and these matters are remanded back to the learned Rent Controller, with directions to expeditiously proceed and pass Final Orders in both the main Rent Applications, after recording evidence of both

5. *'Mst. Zahida Parveen and another v. Iftikhar Hussain'* (2019 YLR 474)

6. *'Zahid Khan v. Mst. Razia Khatoon and another'* (2020 YLR 192)

7. *'Bahadur Khan and others vs. Ch. Muhammad Hussain and others'* (1991 SCMR 429)

8. *'Saltanant Khan v. Mst. Fatrani & others'* (2008 CLC 500)

sides within a period of sixty (60) working days from the date of receipt of this Judgment. Pending such a decision, and without prejudice to the rights and contentions of respective parties, the Petitioners shall continue to deposit future monthly rent on or before the 10th of each month at the rate of Rs.300,000/- per month and Rs.60,000/- per month, respectively, with the learned Rent Controller, as directed in the earlier Order dated 07.11.2024. To secure the rights of the landlord concerning his claim for arrears of rent, each of the petitioners shall submit within 30 days from today, respective securities with the learned Rent Controller, equivalent to the respective amount of arrears of rent, as determined by the learned Rent Controller in the impugned Orders, which shall be released to the successful party, subject to the Final Order in the said Rent Cases.

These instant petitions, along with pending applications, stand disposed of in the above terms.

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