

IN THE HIGH COURT OF SINDH AT KARACHI

Before Mr. Justice Nisar Ahmed Bhanbhro,

C.P.No.S-248 of 2025

Asad Sagarwala...v/s...Muhammad Inayat Khan & others

C.P.No.S-249 of 2025

*Riaz A. Contractor.....v/s.....Muhammad Inayat Khan
& others*

C.P.No.S-250 of 2025

*Mst.Ayesha Bai.....v/s.....Muhammad Inayat Khan
& others*

C.P.No.S-251 of 2025

*Mst.Batool Asif.....v/s.....Muhammad Inayat Khan
& others.*

C.P.No.S-252 of 2025

*Mst.Habibav/s.....Muhammad Inayat Khan
& others.*

C.P.No.S-253 of 2025

*Ashique Hussain.....v/s.....Muhammad Inayat Khan
& others.*

For Petitioners: M/s.Abdul Wajid Wyne, Waqas Wajid Wyne
and Bilal Wajid Wyne, Advocates

For Respondents: M/s Asadullah & Zameer Hussain, Advocates

Date of Hearing: 17-08-2026

Date of Order & Announcement 11.09.2026

ORDER

NISAR AHMED BHANBHRO, J:- I propose to decide the fate of captioned petitions through this single order as common questions of law and facts are involved.

2. The captioned petitions are directed against the concurrent findings of the Courts below, whereby learned District Judge Karachi East (**Appellate Court**) vide separated judgments dated 04.03.2025 (**1st Impugned Judgments**), dismissed the First Rent Appeal (F.R.A) No 215 of 2024 (*Re- Ashique Hussain V. Muhammad Inayat Khan*), F.R.A No 216 of 2024 (*Re - Mst. Batool Asif V. Muhammad Inayat Khan*), F.R.A. No. 217 of 2024 (*Re - Asad Sagarwala V. Muhammad Inayat Khan*), F.R.A No 218 of 2024 (*Re - Mst. Habiba V. Muhammad Inayat Khan*), F.R.A No 219 of 2024 (*Re- Mst. Ayesha Bai V. Muhammad Inayat Khan*) and F.R.A No 220 of 2024 (*Re- Riaz A. Contractor V. Muhammad Inayat Khan*) and maintained thereby separate judgments dated 28.09.2024 (**2nd Impugned Judgments**) passed by learned Rent Controller-IV, Karachi East (**Rent Controller**) in Rent Case No. 228 of 2023 (*Re - Muhammad Inayat Khan V. Ashique Hussain*), Rent Case No. 230 of 2023 (*Re- Muhammad Inayat Khan V. Mst. Batool Asif*), Rent Case No. 231 of 2023 (*Muhammad Inayat Khan V. Asad Sagarwala*), Rent Case No. 232 of 2023 (*Re- Muhammad Inayat Khan V. Mst. Habiba*), , Rent Case No. 233 of 2023 (*Re- Muhammad Inayat Khan V. Mst. Aysha Bai*), and Rent Case No. 234 of 2023 (*Re- Muhammad Inayat Khan V. Riaz A. Contractor*). Learned Rent Controller allowed the ejectment applications filed by the Respondent No 1 (**Landlord**) Muhammad Inayat Khan and directed Petitioners (**Tenants**) to handover peaceful possession of the demised premises to Landlord within sixty days.

3. Transient facts as spelt out from the Rent Cases filed by Landlord Muhammad Inayat Khan (**Respondent No 1 in all the captioned petitions**) are that Landlord is a lawful trustee of property viz. Plot No. GRE-332/1, measuring 1840 Square Yards of Garden East Quarters, Karachi purchased through registered deed. Predecessor in interest of Respondent No 1 constructed flats on the said plot and rented out the same to Tenants

(Petitioners in all the captioned petitions) through Oral Tenancy Agreement in year 1986 over monthly rent of Rs.2,000/- and sum of Rs.50,000/ as security deposit. It was agreed mutually that monthly rent of demised premises shall be enhanced annually as per fair market value in vicinity. It is averred that since the beginning of tenancy the Tenants used to pay a monthly rent of Rs.500/- only, instead of Rs.2,000/- with request to adjust the balance amount from security deposit. It was also averred that after expiry of tenancy agreement the Tenants failed to pay monthly rent, committed willful default, therefore were liable to pay arrears of monthly rent besides demised premises were required to the Landlord for his personal bona fide need and residence of other family members. It is averred that Tenants were approached to vacate the demised premises, but despite of repeated requests they refused, hence, Landlord filed separate ejectment applications seeking eviction of Tenants from demised premises on the grounds of default and bona fide need.

4. On notices Tenants appeared before Learned Rent Controller and filed written statements, whereby admitted the tenancy relationship however, denied the contentions in respect of willful default in payment of monthly rent and personal bona fide need of Landlord. It was further pleaded that demised premises were a trust (wakf) property, owned by one Shaikh Budhan, who dedicated the accruals of rents and profits of the demised premises in trust for religious and charitable purposes and for his own benefits and after his death for the benefit of his two nephews namely Ismail Khan and Muhammad Khan. Landlord Muhammad Inayat Khan is grandson of Muhammad Khan. It is further maintained that demised premises were let out against monthly rent of Rs 500 on pagree (goodwill) basis and amount of Rs. 50,000 was taken as pagree but not as advance or

security deposit. It was further contended that demised premises were wakf property, therefore, Muhammad Inayat Khan (Respondent No 1) being one of the trustee was not competent to initiate ejectment proceedings at his own. Other trustee were not made party to the proceedings, as such the rent case was not maintainable and liable to be dismissed.

5. Out of the pleadings of parties, Learned Rent Controller framed following points for determination in all the rent cases:

I. *Whether the rent case is not maintainable?*

II. *Whether there is any relationship of landlord and tenant between the parties?*

III. *Whether the applicant is entitled to get vacate the rented premises on ground of default?*

IV. *Whether the applicant is entitled to get vacate the rented premises on ground of personal need?*

V. *What should the order be?*

6. Parties adduced evidence through affidavits and were cross examined. After hearing the parties through learned Counsel, ejectment applications were allowed on the ground of personal bona fide need, however claim of Landlord regarding wilful default was found unsubstantiated and declined.

7. **Heard Arguments.** Learned counsel for the Petitioners (Tenants) contended that rent case was maintained on personal need for family use and default in payment of rent, but Respondent No 1 (Landlord) failed to establish default in rent and judgment of Rent Controller to that extent remained unchallenged thus attained finality. He contended that Landlord failed to mention the number of family members to seek ejectment of all

tenants on the ground of personal bona fide need. He next contended that ejectment proceedings were filed through attorney, however, in trial the attorney as well as principal both appeared and contradicted each other on material points. He insisted that respondent No 1 was a co-trustee and was never sole owner in respect of the demised premises besides the author of the trust created trust for extending its profits and rents to the benefits of the trustees without creating exclusive rights to occupy premises for their personal bona fide need. He contended that in present circumstances no right existed in favor of Respondent No 1 to seek ejectment for his personal bona fide need. Learned Counsel contended that respondent No 1 and his witness failed to describe the names of family members as well as any specific date and time approaching Petitioners seeking eviction of the demised premises for personal need as much as the restriction in respect of personal occupation of the trustee in the Declaration of Trust. He next contended that respondent No 1 has failed to specifically furnish that co-trustee and his legal heirs since died leaving him as a sole trustee entitling him to file ejectment proceedings. He lastly contended that learned courts below failed to appreciate the evidence available on record, more particularly, the trust deed relied upon by respondent No 1. He contended that concurrent findings were based upon conjecture and surmises being under high influence of owner's right of occupation without visualizing the lawful rights of the tenant under the provisions of law. He relied upon the case of Br. Miss I. Ali Muhammad V. Muhammad Shafiq (**PLD 1971 SC 494**), Yousaf and another V. Muhammad Zubair Khan and another (**1986 CLC 165**), Abdul Hammed Asghar (through L.Rs) and others (**2023 CLC 344**), Allies Book Corporation through L.Rs V. Sultan Ahmed and others (**2006 SCMR 152**), Mst. Shirin Bai V. Famous Art Printers (Pvt) Ltd and others (**2006 SCMR 117**), and Messers Bara Imam Bara Trust V. Messers

Hakim & Co. (1992 CLC 2235). He therefore prayed for allowing of the captioned Petitions with prayer to dismiss the rent cases.

8. Learned counsel for the respondent No 1 (Landlord) contended that Landlord was a co-trustee and was competent to institute rent case. He contended that Trust Deed expressly provided for residence of author of trust and after his death for residence of his nephews. He contended that Landlord was one of the legal heirs of nephew of the author of trust. He next contended that Tenants admitted in cross examination payment of 16 months' accumulative rent which sufficiently proved that Tenants committed default. He contended that Landlord is 76 years of age as such the ejectment application was filed through an attorney and thereafter he himself appeared in the witness box and deposed relevant facts on Oath, wherein, he asserted his personal bona fide need of the demised premises. He next contended that lease of the subject premises had since expired which was later renewed in favor of the respondent no 1 exclusively since other co-trustee died as such Respondent No 1 validly lodged ejectment proceedings. He relied upon the case of Yousaf and another Vs. Muhammad Zubair Khan and another (1986 CLC 165) Karachi and contended that this Court in cited case upheld the ejectment proceedings filed for personal bona fide need by a trustee. He lastly contended that learned courts below rightly appreciated the evidence available on record in terms of the principles settled in that regard as such instant petition is liable to be dismissed.

9. Crux of the controversy involved in the present litigation is Whether a trustee can file ejectment application or not? And whether being

trustee/beneficiary of the trust property, can claim the eviction of demised premises for his personal bona fide need or not?.

10. To resolve this controversy, it will be conducive to read the declaration of the trust deed, which reads as under:

"AND WHEREAS the said Sheikh Budhan son of Sheikh Jamal has no wife and children of his own to inherit him. AND WHEREAS the said Budhal son of Sheikh Jamal is desirous of permanently settling the said immovable property of his, by way of Trust (Wakf) dedicating the said immovable property and the rents and profits realized thereof to the service of the Almighty and for religious pious and charitable purposes. AND WHEREAS the said Sheikh Budhan son of Sheikh Jamal in creating the said Trust is desirous of making revision therein for his own residence maintenance and support and the residence, maintenance and support after his death, of his two nephews namely Chhotoo alias Ismail Khan and Mehmood Khan son of Raja Khan."

11. From the contents of trust deed, it is crystal clear that trust was dedicated to the service of Almighty and for religious, pious and charitable purpose. Besides the trust property was dedicated for the purposes of residence, maintenance and support of author of trust and after death his two nephews namely Ismail Khan and Muhammad Khan. Muhammad Inayat Khan Landlord in the present case is legal heir of Muhammad Khan, as such being legal heir of beneficiary of trust in terms of trust deed, he was entitled to enjoy benefits viz-a-viz residence in the premises and accruals of rent. Since the trust was created for limited purposes and was different from a trust in its ordinary meaning and its purpose was to secure the interests of legal heirs of original owner and save it from further transactions through sale or otherwise, therefore on death of Budhan

Shaikh, his nephews Muhammad Khan and Muhammad Ismail became the trustees. Further the trust devolved upon Muhammad Inayat Khan being grand child in descender. Since Muhammad Inayat Khan was enjoying the status of owner and trustee of the property, no embargo existed under the law to institute a rent case by him, trustee squarely fell within the definition of Landlord contained under section 2(f) of SRPO, 1979 and the legal proposition is settled that a trustee can invoke the provisions of section 15 of the SRPO, 1979 and seek the eviction of premises.

12. The contention of Learned Counsel for Petitioners that Respondent No 1 did not claim relief of his personal need in prayer clause of the rent applications and Rent Controller cannot grant any relief beyond the prayer made, therein. From perusal of record, it is observed that in para-9 of the ejectment application, Respondent No 1 specifically described need of the premises for himself and his family. Learned Rent Controller based upon the pleadings of parties framed a specific issue of personal need, which was never objected by Petitioners nor any amendment in the issues was sought. Mere non mentioning in prayer clause, the ground on which ejectment was sought, was no ground to non suit Respondent No 1, more particular, when it was specifically averred in the pleadings that demised premises were required for personal bona fide need. More over in cross examination to PW-1, Counsel for Petitioners made a suggestion that *"It is incorrect to suggest that applicant does not need premises for his personal need or need of his any family member."* Voluntarily says, *"there are 11 family members of applicant family and they are residing in one room apartment."* Petitioners were aware that an issue of bona fide was framed and evidence was led to prove and disprove the same, as such petitioners were not misled during trial and contrary, contested the case to disprove bona fide need of

Landlord. Therefore, this contention did not survive and rightly resolved by the Courts below.

13. Contention of Learned Counsel for Petitioners that details of family members who required the premises for personal need were not given in pleadings as such bona fides were not established on account of concealment of facts. The details of family members were immaterial for the purpose of seeking eviction on the ground of personal bona fide, as only the honest intention of landlord was material to constitute bona fides. However, even if details of family were missing, such defect stood cured during cross-examination, when in reply to a question numbers of family members were disclosed by Landlord. Thus objection as to the details of family members having not been disclosed in the eviction application as well as in the affidavit-in-evidence stood vanished. Non mention of details of family members was not a material fact, firstly, it did not amount to suppression of material facts, and secondly, it was cumulative effect of pleadings that included the examination-in-chief and cross-examination, to form an opinion as to whether suppression was material or immaterial. Landlord claimed possession of demised premises for personal use and use of other family members. It was never necessary to mention the details of family members in ejectment proceedings, thus the objection raised by the Petitioner was not tenable to non suit Respondent No 1.

14. Counsel for Petitioners has further urged that subject building housed 10 flats; out of which 6 flats were occupied by Tenants leaving 4 flats as vacant, and sufficient space was available for accommodation of family of Landlord. He urged that since 4 vacant flats were available, therefore eviction of Tenants was sought with mala fide intention. Such

stance was negated in evidence as during cross examination Landlord deposed that said four flats were not in habitable condition. Moreover, it is prerogative of the Landlord to regulate the status of demised premises. It is to the choice of Landlord, as he likes best amongst the properties he owned, to reserve for his personal need and Tenant cannot dictate or direct the Landlord for alternate premises in his ownership. Since remaining vacant flats were not in proper condition therefore, choice of Landlord cannot be declared as malicious demand.

15. This court under its writ jurisdiction sparingly interferes into the concurrent findings of fact unless the same are found perverse to record or suffered from jurisdictional defect, misreading or non reading of the evidence, same being not the situation in the present case, therefore, indulgence is not warranted.

16. The case laws relied upon by Learned Counsel for Petitioners are on different footings and with due reverence are distinguishable from the facts and circumstances of the case in hand.

17. For the foregoing reasons, no case for indulgence of this Court is made out. Consequently, the captioned petitions fail and are hereby dismissed with no order as to the costs. Office to place signed copy of the order in the connected petitions.

Approved for reporting

JUDGE