

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI.**

**Constitutional Petition No. S-826 of 2011**

Date	Order with signature of Judge(s)
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1. For hearing of CMA No.1933/2014 (U/O 39 R.1&2 CPC)
2. For hearing of CMA No.2541/2013 (U/O I R,10 CPC)
3. For hearing of CMA No.3697/2011 (U/S 151 CPC)
4. For hearing of main case

**26.11.2025**

Syed Abid Hussain Shirazi advocate for the petitioners  
Mr. Muhammad Ali Akbar advocate and Mr. Ali Asghar advocate for respondent No.1  
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**Nisar Ahmed Bhanbhro, J.** This case has a checkered history. The predecessor-in-interest of the petitioner had entered into an agreement of rent with M/s Habib Bank Limited in the year 1966 for a rent of Rs.450/- per month. The original owners filed a rent application under Section 8 of the Sindh Rented Premises Ordinance, 1979 (SRPO) for fixation of fair rent, which was allowed vide order dated 29.1.1995 and a rent of Rs.6681/- per month was fixed. The said round of litigation came to end in year 2004 when the appellate Court maintained the order passed by the learned trial Court.

2. Heard arguments perused record with the assistance of learned counsel for the parties.

3. On demise of the original owners, the present petitioners filed ejectment application on the ground of default specifically mentioning that since the year 2006, the tenant had failed to pay the rent. The rent application was dismissed on the ground that the petitioners were not the legal heirs of the deceased and if they are believed to be legal heirs of the deceased, all the legal heirs of the deceased owners were not party to the proceedings. It transpires from the record that such a findings of the fact on the part of the Courts below was not based upon the record as admittedly the petitioners joined the earlier proceedings as the legal heirs of the deceased owners and they were entitled to file an ejectment application under Section 15 of the SRPO.

4. Since the findings of the facts tendered by the Courts below are not based upon the proper appraisal of the evidence, therefore, the impugned orders dated 25.5.2010 passed in rent case No.641 of 2007 by the Court of VIIth Rent Controller Karachi (South) and judgment dated 05.4.2011 passed in Rent Appeal No.270/2010 passed VIIth Additional District Judge (South) Karachi (re: Feroz Sajjan & Ors. v. Habib Bank Ltd. & Ors.) are set aside. The matter is remanded to the trial Court to frame a preliminary issue as to the legal heir ship of the original owners and after decision on the said issue the learned trial Court shall proceed with the matter as to the default in payment of rent by respondent No.1, which per learned counsel for respondent No.1 is

being deposited by them in MRC. The learned trial Court shall record the findings a fresh after giving an opportunity of leading evidence to the parties and shall decide the fate of the case within a period of six (06) months from the date of receipt of this order. In case, the other legal heirs of the deceased owners intend to become party as the application under Order I Rule 10 CPC has been filed before this Court, learned trial Court may decide those applications in accordance with law.

This petition stands disposed of in above terms alongwith listed / pending applications.

JUDGE

Zahid/\*