THE HIGH COURT OF SINDH KARACHI

Before:
Mr. Justice Zulfiqar Ali Sangi

C.P. No. S – 1312 of 2025
[Nadeem Sultan vs. Asif Feroze & others]

Petitioner	:	Nadeem Sultan through Mr. Abdul Qadir Khan, Advocate.
Respondent Nos.1-2	:	Asif Feroze and Anas Feroze through M/s. Muhammad Munir Qadri and Syed Asad Hussain Rizvi Zahid, Advocates.
Applicant/Intervener	:	Nadeem Anwer through Syed Noman Zahid, Advocate.

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Date of hearing	:	05.11.2026
Date of decision	:	05.11.2026

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O R D E R

Zulfiqar Ali Sangi J.– Through the instant constitutional petition, the petitioner has called into question the judgment dated 06.10.2025 passed by the learned IIIrd Additional District Judge, Karachi East, in First Rent Appeal No.41 of 2025, whereby the appeal preferred by the petitioner was dismissed and the order dated 26.02.2025 passed by the learned Rent Controller-XIII, Karachi East, in Rent Case No.359 of 2019 was maintained. Through the aforesaid order, the learned Rent Controller allowed the ejectment application filed by respondents No.1 and 2 under Section 15 of the Sindh Rented Premises Ordinance, 1979 ***(hereinafter referred to as "the Ordinance")***, on the ground of wilful default in payment of rent and directed the petitioner to vacate and hand over peaceful possession of the rented premises, comprising Shop No.5 on the ground floor and Lobby Nos.7 and 7-A on the mezzanine floor, situated in Feroze Square, constructed on Plot No.CC-31, Block-3, Bahadurabad, Karachi.

2. The brief facts, as emerging from the record, are that respondents No.1 and 2 instituted Rent Case No.359 of 2019 against the petitioner, asserting that the latter was their tenant in

respect of the subject premises at a monthly rent of Rs.14,000/-, but had failed to pay rent since July 2016. It was further asserted that despite service of legal notices dated 11.10.2018 and 13.11.2018, the petitioner failed to clear the outstanding rent and thereby committed willful default within the meaning of the Ordinance. The petitioner contested the ejectment application by filing his written statement, wherein, while admitting the relationship of landlord and tenant and the agreed rate of rent, he denied the alleged default and maintained that rent had been paid up to May 2020, but the landlord had deliberately avoided issuing rent receipts. He also questioned the competence of the attorney who instituted the ejectment proceedings and raised objections regarding the ownership of the premises, alleged change of ownership and non-compliance with Section 18 of the Ordinance.

3. The parties led their respective oral and documentary evidence. The learned Rent Controller, after examining the evidence and hearing the learned counsel for the parties, held that the objection regarding the competence of the person instituting the ejectment proceedings was not established, whereas the petitioner had failed to prove payment of rent for the period from July 2016 till January 2022. Consequently, the ejectment application was allowed vide order dated 26.02.2025. The petitioner preferred First Rent Appeal No.41 of 2025, which was dismissed by the learned IIIrd Additional District Judge, Karachi East, vide judgment dated 06.10.2025, resulting in the filing of the instant constitutional petition.

4. Learned counsel for the petitioner contends that both the courts below have failed to appreciate the evidence in its proper perspective and have recorded findings contrary to the material available on record. He submits that the ejectment application was instituted by an incompetent person, as no valid power of attorney was initially filed along with the application, whereas the general power of attorney subsequently produced was neither properly stamped nor registered. He further contends that the respondents failed to produce any document establishing their ownership of the subject premises and, admittedly, no notice under Section 18 of the Ordinance was served upon the petitioner regarding the alleged change of ownership. He also submits that the petitioner had been

paying rent regularly and had paid the same up to May 2020, but the respondents deliberately withheld the issuance of rent receipts to create an artificial ground of default. According to him, the rent deposited pursuant to the order dated 02.02.2022 passed under Section 16(1) of the Ordinance was deposited regularly up to February 2025, which fact itself demonstrates his bona fide conduct. He further argues that the respondents failed to discharge the initial burden of establishing default and that the alleged default could not have been presumed merely because the petitioner did not produce rent receipts for the disputed period. In support of his submissions, learned counsel has placed reliance upon the case of MAZHARUL ISLAM and another v. MST. MAFIA, reported as PLD 1991 Supreme Court 835.

5. Conversely, learned counsel for respondents No.1 and 2 has opposed the petition and contended that both the courts below have concurrently examined the entire evidence and have rightly concluded that the petitioner committed wilful default in payment of rent. He submits that the relationship of landlord and tenant, as well as the agreed rate of rent, is admittedly not disputed. He further contends that the petitioner has failed to produce any rent receipt or other reliable documentary evidence establishing payment of rent for the period in question, whereas the earlier rent receipts produced by the petitioner himself demonstrate that the practice of issuing rent receipts had been followed between the parties. He further submits that the deposit of rent pursuant to the order passed under Section 16(1) of the Ordinance does not absolve the petitioner of his liability in respect of the previous default. He maintains that the objections regarding the authority of the attorney and the alleged defect in the power of attorney have already been considered and rightly rejected by the courts below. In support of his contentions, learned counsel has relied upon the cases of MUHAMMAD AMIN LASANIA v. Messrs ILYAS MARINE AND ASSOCIATES and others, reported as PLD 2015 Supreme Court 33; NIAZ HUSSAIN SHAH v. Mrs. SHAMIM AKHTAR, reported as 2017 CLC Note 67; Messrs TELENOR PAKISTAN (PVT.) LTD., through Authorized Representative v. MST. SURRAYYA KHATOON and 2 others, reported as 2017 YLR 2115; and HAJI MUHAMMAD

ASHRAF QURESHI v. NANKI BAI and 6 others, reported as 2020 CLC 1599.

6. Learned counsel appearing on behalf of the applicant/intervener has also been heard, who has supported the case of the respondents and contended that the controversy between the parties has already been adjudicated upon by the competent courts after recording evidence and that no exceptional circumstance has been demonstrated warranting interference by this Court in its constitutional jurisdiction. In support of his submissions, he has placed reliance upon the case of SAHABZADI MAHARUNISA and another v. MST. GHULAM SUGHRAN and another, reported as PLD 2016 Supreme Court 358.

7. I have heard the learned counsel for the parties and the learned counsel appearing for the applicant/intervener and have examined the available record with their assistance. The principal controversy requiring consideration is whether the concurrent findings recorded by the learned Rent Controller and the learned appellate court suffer from any illegality, jurisdictional defect, misreading or non-reading of evidence so as to warrant interference by this Court in the exercise of its constitutional jurisdiction.

8. At the outset, it may be observed that the relationship of landlord and tenant between the parties and the agreed monthly rent of Rs.14,000/- are not disputed. The principal defence of the petitioner is that he had paid rent up to May 2020, but the respondents deliberately did not issue rent receipts. However, a perusal of the record reflects that the petitioner himself produced earlier rent receipts, marked as Ex.O/1 to Ex.O/15, which demonstrate that rent receipts had been issued in the ordinary course of dealings between the parties. In such circumstances, the explanation furnished by the petitioner that rent was paid regularly but no receipts were issued for the entire disputed period required independent and convincing corroboration. Admittedly, no rent receipts or other documentary evidence evidencing payment of rent for the period in question were produced by the petitioner. It is equally significant that the petitioner examined two witnesses in support of his plea of payment. However, their depositions did not provide any satisfactory corroboration of the alleged payments. One

of the witnesses admitted that he was unaware of the exact amount of rent paid, whereas the other witness also could not furnish particulars of the alleged payment and admitted that he was not present at the time of the last payment. Thus, the oral evidence produced by the petitioner was found insufficient by the learned Rent Controller to establish discharge of his obligation to pay rent. The mere assertion that rent had been paid in cash, without receipts or any reliable corroborative material, could not, in the circumstances of the case, be accepted as sufficient proof of payment.

9. So far as the contention regarding the initial burden of proof is concerned, it is correct that the landlord is required to establish the relationship of landlord and tenant and the default alleged in the ejectment application. However, once the landlord or his duly authorized representative enters the witness box and makes a statement on oath regarding non-payment of rent, the tenant is required to substantiate his plea of payment through reliable evidence. In the present case, the respondents not only asserted non-payment of rent since July 2016 but also produced the relevant notices and supporting material, whereas the petitioner, despite having specifically pleaded payment up to May 2020, failed to establish the same through convincing evidence. The principle relied upon by the learned Rent Controller in this regard is also supported by the reported judgment in Syed Ali Sadaf v. Learned District Judge, Central, Karachi and others, reported as SBLR 2021 Sindh 2362.

10. The contention that the petitioner regularly deposited rent pursuant to the order dated 02.02.2022 passed under Section 16(1) of the Ordinance is also of no assistance to him. The record reflects that the petitioner deposited rent in compliance with the said order up to February 2025. However, such deposits pertain to the period commencing from January/February 2022 onwards and cannot, by themselves, establish payment of rent for the earlier period from July 2016 till January 2022. Compliance with an interim direction for deposit of future rent does not automatically extinguish an already accrued default. The learned Rent Controller, therefore, rightly distinguished between the rent deposited pursuant to the

order under Section 16(1) of the Ordinance and the outstanding rent for the preceding period.

11. As regards the objection concerning the competence of the person who instituted the ejectment proceedings, the record reflects that the learned Rent Controller examined this aspect in detail. The petitioner himself admitted the relationship of landlord and tenant and also acknowledged that rent had previously been collected from him by the predecessor of the present respondents. The attorney of the respondents produced the general power of attorney during his examination-in-chief, which was marked as Ex.A/2. The learned Rent Controller, while examining the objection, also considered the definition of "landlord" contained in Section 2(f) of the Ordinance, which includes not only the owner of the premises but also a person who is for the time being authorized or entitled to receive rent in respect thereof. Thus, the mere fact that the person instituting the proceedings was not himself the owner of the premises was not, in the circumstances, sufficient to render the ejectment proceedings incompetent.

12. The objection that the general power of attorney was not initially annexed with the ejectment application or was subsequently produced during evidence, also requires consideration in the context of the entire record. The petitioner has not been able to demonstrate that the alleged defect, in the facts and circumstances of the present case, resulted in any material prejudice to his defence or rendered the proceedings without jurisdiction. Furthermore, the learned Rent Controller specifically considered the challenge to the authority of the attorney and recorded reasons for rejecting the same. The petitioner has not been able to point out any provision of the Ordinance which would render the entire proceedings void merely on the basis of the objections raised regarding the form or registration of the power of attorney. The authorities relied upon by the respondents, particularly Telenor Pakistan (Pvt.) Ltd. (supra) and Haji Muhammad Ashraf Qureshi (supra), have also been cited in support of the proposition that objections relating to the authority of a person acting on behalf of the landlord are to be examined in the light of the statutory definition of landlord and the circumstances of the particular case.

13. The further contention regarding non-compliance with Section 18 of the Ordinance, on account of the alleged change of ownership, also does not advance the case of the petitioner. It is apparent from the material available on record that the petitioner has acknowledged the relationship of landlord and tenant and has not disputed the collection of rent by the persons representing the landlord's family. The question as to whether the respondents were entitled to institute the ejectment proceedings was examined by the learned Rent Controller with reference to the evidence and the statutory definition of landlord. The petitioner has not been able to demonstrate that the alleged non-service of notice under Section 18, in the peculiar circumstances of the case, nullified the relationship of landlord and tenant or otherwise rendered the ejectment application incompetent. Mere reliance upon an admission regarding non-issuance of notice, without demonstrating its legal consequence upon the respondents' entitlement to seek eviction, is not sufficient to dislodge the concurrent findings recorded by the courts below.

14. The submission regarding non-production of title documents also does not furnish a sufficient ground for interference. The proceedings under the Ordinance were concerned with the relationship of landlord and tenant and the alleged default in payment of rent. The question of title to the premises was not the principal controversy requiring adjudication in the ejectment proceedings. Once the relationship of landlord and tenant stood admitted and the respondents established their entitlement to receive rent, the mere non-production of formal title documents could not, in the circumstances, defeat the ejectment application. It is settled that the Rent Controller is required to determine the relationship of landlord and tenant and the statutory grounds for eviction, rather than embark upon a comprehensive adjudication of competing claims of ownership.

15. I have also considered the contention of the petitioner that the tenancy originated in the year 1973 and that he has been occupying the premises for approximately fifty years. No doubt, the duration of the tenancy and the nature of the business carried on by a tenant are relevant circumstances; however, the length of occupation, by itself, does not confer immunity against eviction where a statutory

ground for ejectment has been established. The provisions of the Ordinance are equally binding upon landlords and tenants, and a tenant is under a corresponding obligation to pay rent in accordance with the terms of tenancy. Consequently, the plea of longstanding tenancy or hardship cannot override a duly established ground of willful default.

16. The contention concerning the alleged waiver or acquiescence on the part of the respondents, based upon their application for withdrawal of the rent deposited in Court, is also misconceived. The withdrawal of rent deposited pursuant to an order under Section 16(1) of the Ordinance cannot, without more, be construed as waiver of an earlier default or as novation of the existing tenancy arrangement. No material has been brought on record to establish that the respondents, by their conduct, intended to abandon their claim regarding the outstanding rent or accepted any fresh arrangement extinguishing the default already accrued.

17. I have also examined the judgment of the learned appellate court. It reflects that the learned Additional District Judge formulated points for determination, examined the objections relating to the competence of the person instituting the ejectment proceedings and the alleged default, and recorded independent findings after considering the evidence available on record. The appellate court has also taken into account the failure of the petitioner to produce documentary evidence establishing payment of rent for the disputed period and the inability of his witnesses to substantiate the alleged payments. Thus, the impugned appellate judgment cannot be said to be a mere mechanical affirmation of the order passed by the learned Rent Controller.

18. The case law relied upon by the learned counsel for the petitioner, including Mazharul Islam and another v. Mst. Mafia (supra), has been considered. However, the applicability of a judicial precedent depends upon the factual and legal controversy involved in the case under consideration. The petitioner has not been able to demonstrate that the principles laid down in the said judgment render the findings recorded by the courts below unsustainable in the peculiar facts of the present case. Conversely, the authorities relied upon by the learned counsel for the respondents have been

cited in support of the legal position concerning proof of payment of rent, the status of a person authorized to receive rent and the determination of the landlord-tenant relationship. Likewise, the judgment relied upon by the learned counsel for the applicant/intervener, namely Sahabzadi Maharunisa and another v. Mst. Ghulam Sughran and another (supra), has been considered to the extent relevant to the controversy before this Court.

19. It is by now a settled principle that constitutional jurisdiction under Article 199 of the Constitution is not intended to provide another forum for reappraisal of evidence or to substitute the findings of the competent courts merely because another view may also be possible. Interference is warranted where the impugned order or judgment suffers from patent illegality, jurisdictional defect, perversity, or material misreading or non-reading of evidence. In the present case, the petitioner has failed to identify any such infirmity in the concurrent findings recorded by the learned Rent Controller and maintained by the learned appellate court. The objections raised by the petitioner have substantially been examined and answered by the courts below through reasoned orders, and no jurisdictional error or violation of law warranting constitutional interference has been demonstrated.

20. For the foregoing reasons, I am of the considered view that the petitioner has failed to make out a case for interference by this Court in the exercise of its constitutional jurisdiction. Consequently, the instant constitutional petition, being devoid of merit, is hereby dismissed, along with the pending applications, if any. The judgment dated 06.10.2025 passed by the learned IIIrd Additional District Judge, Karachi East, in First Rent Appeal No.41 of 2025, and the order dated 26.02.2025 passed by the learned Rent Controller-XIII, Karachi East, in Rent Case No.359 of 2019, are maintained. Needless to observe that the petitioner shall comply with the directions contained in the order of ejectment, subject to any lawful protection available to him under the applicable law.

21. The petition stands disposed of in the above terms.

JUDGE