

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

C.P. No.S-1214 and S-1215 of 2013 and S-1338 of 2019

M/s Jamia Majid Gharib Nawaz, petitioner in all three petitions
versus
Versus (1) Muhammad Arif & others, (2&3) Jawaid Mahmood & others

Date	Order with signature of Judge
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Dated: 22.03.2021

Ashraf Hussain, stated to be president of petitioner trust.
Mr. Aman Ahmed Qazi for respondents No.1 and 2 in all petitions.

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These petitions are being disposed of through this common order as the only finding that has been under challenge is that Ashraf Hussain (petitioner) has no authority to appear on behalf of petitioner trust and/or initiate the lis on behalf of the trust.

The trial Court while entertaining Rent Case Nos.768/2007, 868/2006 and 361/2013 categorically observed that the authority represented by Ashraf Hussain to represent petitioner trust was in clear contradiction to the terms and conditions of the Trust to whom said Ashraf Hussain is allegedly representing and he ceased to hold the office by virtue of the tenure. The vacancies were required to be filled from the remaining trustees by majority decision. There is nothing on record to demonstrate that Ashraf Hussain was lawfully appointed as president and/or trustee and authorized to file eviction applications. On this count the trial Court dismissed the eviction applications as the applicant/petitioner failed to establish that he is still president and trustee and competent to file eviction application. The order of the trial Court was maintained by the appellate Court in the respective FRAs. Even before the appellate Court the petitioner has failed to establish relationship of landlord and tenant.

On these concurrent findings of fact of two Courts below, petitioner has filed these petitions that on fact the order of trial Court as well as appellate Court is illegal and unlawful.

In these petitions under Article 199 of Constitution of Islamic Republic of Pakistan, 1973 questions of fact cannot be entertained. Even at this stage petitioner who is appearing in person has failed to file or point out from record any document to demonstrate that he is lawfully appointed president of the Trust and the trustees have shown their confidence in his appearance as being president or he has been authorized to file eviction application. Such being the situation this Court cannot interfere on the questions of fact as determined by the two Courts below.

It has also been pointed out by counsel appearing for private respondents/tenants that the premises/shops have already been vacated by respondents where ablution portion for those coming to mosque for offering prayers has been constructed by the trust.

In view of above no indulgence as such is required to disturb the concurrent findings of facts of two Courts below and hence the petitions are dismissed along with pending applications.

Judge