

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. NO.S-69 OF 2025
(Gul Ahmed v Mst. Farah Tariq & another)

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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For hearing/Priority

1. For hearing of CMA No. 634/2025.
2. For hearing of main case.

Date of hearing and order :- 27.02.2025

Mr. Raj Ali Wahid advocate for the petitioner
Mr. Zeeshan Abdullah advocate for the Respondent No.1
Ms. Deeba Ali Jafri, AAG

Ali Haider Ada, J :- Through this petition the petitioner assails the order dated 26.12.2024, passed by learned Rent Controller in rent case No. 45 of 2023, in which directed the petitioner to submit the rent arrears, as the application under section 17(8) of Cantonment Restriction Act 1963 was allowed.

2. Learned counsel for the petitioner submits that the impugned order is not sustainable as his Civil Suit is already pending before this Court, in which this Court passed order on 11.01.2023 with direction to maintain status-quo. Further submits that the relationship is denied so the section 17(8) of the Act is not to be entertained. He placed reliance the cases of *Mian Umar Ikram ul Haq v Dr. Shahida Hasnain & another*, **2016 SCMR 2186**, *Mst. Miskina jan vs Rehmat Din* **1992 SCMR 1149**, *Muhammad Nazeer v Ghulam Hussain* **2023 CLC 1070**, *Muhammad Danish Rafiq vs. Mst Nafisa Siddique* **2009 MLD 144**, *Ashiq Hussain and another v Jamia Masjid Hanfia Ghousia through President* **PLD 2007 Lahore 283**. He lastly prayed for allowing the instant petition.

3. On the other hand learned counsel for the respondent No.1 filed a statement along with order dated 21.01.2025 passed by the learned Rent Controller which shows that rent proceeding before the learned trial court was disposed of in view of final order under section 17(9) of the Act, he is serious concerned that on 21.01.2025 when the order was passed as the same is in knowledge of the petitioner/counsel and they filed petition on 25.01.2025 and further pointed out that the certified true copy of impugned order was received on 09.01.2025, further contends that before the learned trial court the same firm is representing the petitioner as such firm also filed this petition, therefore this petition is become infructuous and such practice of the petitioner in order to concealment of fact to get interim order otherwise he is remedy as provided under the law, further he reliance upon the cases of *President All Pakistan Women Association, Peshawar Cantt vs Muhammad Akbar Awan and others* **2020 SCMR 260**, *Syed Ali Abbas Rizvi*

through legal representative vs Additional Controller of Rents and another **2020 MLD 130**. He lastly prayed dismissal of the instant petition.

4. Learned AAG has adopted the argument of the learned counsel for the respondent No.1.

5. First of all on rebuttal Mr. Raj Ali Wahid advocate for the petitioner submits that he has no knowledge about any final order because he was not a counsel before the learned trial court but his one associate Mr. Abdul Qadir independently contested the matter as he has no knowledge about his client. The order dated 21.01.2025 was passed which is not in the knowledge of counsel but contends that the same is not in his knowledge that petitioner is aware or not.

6. I have heard learned counsel for the parties and have perused the material available on record with their assistance.

7. First of all once the matter become finality in view of section 17(9) of the Act that the remedy under section 24 of the Act is available to file appeal against final order so as this petition challenged the interim order / order on 17(8) of the Act is become infructuous. Further in presence of remedy available under the law, the constitutional petitions in general in practice are not maintainable as general rule for the purpose of Article 199 of the Constitution of the Islamic Republic of Pakistan 1973 is that the same be invoked once remedy is not provided but when the remedy is available then the limited scope is applied in order to deal the matter, as it is well defined that Article 199 of the Constitution in its invocation is limited in scope once the remedy is available.

8. It is pertinent to mention here that already the final order was passed, when this petition is presented and the process of the court is initiated by concealment of facts and based on concealment and falsehood, so has no right to be approached the court and such litigation must be similarly thrown out at any stage of the litigation, as it is transpired that petitioner has concealed the relevant facts from this court and manage to file this petition by showing his un-awareness of such facts, as such act is intentional and deliberated and it is well settled of law that ignorance of law is not excused.

9. In view of the above this petition is being meritless, misconceived and is hereby dismissed accordingly.

JUDGE