

ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA

Const. Petition No. S-405 of 2024
(Aitbar Ali Rind v. Inayatullah & Ors)

DATE	ORDER WITH SIGNATURE OF JUDGE
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Fresh Case

1. For orders on office objection 'A'
2. For orders on M.A No. 879/2025 (S/A)
3. For Hearing of main case.

Date of hearing and Order:- 07.03.2025

Mr. Abdul Rehman Mughal , Advocate for the petitioner.
Mr. Nazir Ahmed Bhangwar, DPG for the State.

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ORDER

Adnan-ul-Karim Memon, J: The Additional District Judge-II in Jacobabad affirmed a lower court's eviction order against Aitbar Ali alias Dado. This decision, dated September 21, 2024, supported the Rent Controller's May 31, 2022 ruling, which mandated Aitbar Ali to vacate property owned by Inayatullah and pay outstanding rent. An excerpt of the order passed by the Additional District Judge-II, Jacobabad, is reproduced as under;

"12. For what has been discussed above, I am of the considered view that the learned trial Court had properly appreciated evidence brought before it and had attended all legal and factual aspects involved in the ejectment application which does not warrant interference in any manner, therefore, the point No.1 is answered in affirmative.

Point No.2.

13. For the reasons discussed under point No.1, I find no illegality in the order impugned, which is accordingly maintained. Resultantly, the appeal in hand is hereby dismissed with no order as to costs."

2. In Rent Application No. 02/2020, filed with the 1st Senior Civil Judge/Rent Controller, Jacobabad, the landlord claimed ownership of a shop in Jacobabad. He stated the shop had been rented to Lal Muhammad Bhutto 22 years prior at Rs. 1,100 per month. After the original landlord's death, the current landlord, as a legal heir, collected rent until September 2017. Lal Muhammad then stopped paying rent and illegally sub-letted the shop to Aitbar Ali Rind without the landlord's consent. Because the landlord and tenants had different stories, the Rent Controller made a list of specific questions to be answered to settle the case.

1. *Whether instant rent applicant is not maintainable at law being barred under Sindh Rented Premises Ordinance 1979 ?*

2. *Whether there is a relationship of landlord and tenant between the parties?*
3. *Whether opponents have committed willful default in payment of rent of demise shop/premises?*
4. *Whether the demised shop is in personal and bonafide need of the applicant/landlord.*

3. The landlord and tenants presented their evidence in court. After reviewing the evidence and hearing arguments from both sides' lawyers, the Rent Controller granted the landlord's eviction request, as allowed under Section 15 of the Sindh Rented Premises Ordinance, 1979. The appeal was preferred by the petitioner and the learned appellate Court found the original court order to be legally sound and therefore upheld it.

4. The petitioner's lawyer argued the eviction order was flawed due to misinterpretation of evidence. He claimed that the landlord lacked valid grounds for eviction, as the petitioner paid for possession, was not in rent default, and the landlord was not the sole owner. He further argued the landlord's claim of personal need was false, as he could not prove the same. He requested the petition be granted and the impugned orders be overturned.

5. I have heard the learned counsel for the petitioner on the maintainability of the petition and perused the record with his assistance.

6. Inayatullah, the landlord, initiated eviction proceedings against the petitioner tenant, citing unpaid rent and his personal need for the shop. He provided evidence, including a property record, and testified to support his claims. The trial court found that the tenant failed to prove rent payments and that the landlord's personal need claim remained largely unchallenged. The trial court emphasized that a landlord's sworn statement of personal need is sufficient unless strongly disputed. It also ruled that the landlord's co-ownership of the property did not prevent him from filing for eviction, citing a Supreme Court precedent on the subject issue. Ultimately, the trial court concluded that the landlord's grounds for eviction were valid and the tenant failed to provide sufficient counter-evidence. The appeal was also dismissed.

7. Under Article 199, the High Court's review is restricted. It can only intervene if a lower authority ignored or misinterpreted evidence, or decided without any evidence, leading to a serious injustice. The High Court cannot simply re-examine the facts or act as if it were an appeals court. On the aforesaid proposition, I am guided by the decision of the Supreme Court in the cases of Shajar Islam vs. Muhammad Siddique PLD 2007 SC 45, Allies Book Corporation vs. Sultan Ahmed 2006 SCMR 152, Muhammad Hussain Munir vs. Sikandar and others PLD 1974 SC 142

The Supreme Court, in the case of Muhammad Hanif v. Muhammad Jamil Turk, addressed the issue of co-owners and eviction. The Supreme Court observed that even if co-owners eventually divide the property in a partition suit, a single co-owner can still file eviction proceedings against a tenant without including the other co-owners. The Supreme Court clarified that a co-owner acts on behalf of all co-owners when seeking eviction. This ruling overrides the argument that all co-owners must be involved in such a case.

9. The Supreme Court has also addressed the issue of a landlord's personal need and a tenant's weak response. The Supreme Court stated that if a tenant's replies about the landlord's need are vague and unconvincing, it's reasonable to conclude the tenant hasn't effectively challenged the landlord's claim. Unless there's evidence of bad faith or hidden motives, the landlord's stated need for the property is generally accepted.

10. I have examined the impugned order and find that the reasoning advanced by the learned trial Court is justified and apt. The learned appellate court has elaborately considered all the material aspects of the case, legal as well as factual, and rightly dismissed the appeal. The petitioner has failed to point out any illegality or infirmity in the impugned orders to warrant any interference. Consequently, I uphold both the court's orders. The petition is dismissed in limine.

11. These are the supporting reasons for the ruling made on March 7, 2025.