

**HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

C.P Nos.S-259 to 265 of 2024.

Petitioner(s): Muhammad Iqbal @ Iqbal Ahmed Nagori
(In all Petitions) **through Mr. Aslam Pervez Khan, Advocate.**

Respondent No.1: Ayazuddin, Abdul Samad and Muhammad
Idrees **through M/s Muhammad Arshad
S.Pathan and Safdar Hussain Laghari,
Advocates.**
(In all Petitions)

**Respondent
No.2&3:** Through Mr. Allah Bachayo Soomro,
(In all Petitions) Additional Advocate General, Sindh.

Date of hearing: 30.01.2026.

Date of decision: 16.02.2026.

JUDGMENT

RIAZAT ALI SAHAR, J.- Through this single Judgment, the fate of above mentioned all Petitions would be decided. The Petitioner **Muhammad Iqbal @ Iqbal Ahmed Nagori** has preferred above mentioned all these Petitions against Respondent No.1 of all Petitions. Since all these Petitions are preferred against different Respondents with regard to different shop numbers, therefore, the details alongwith facts in nutshell of each Petition impugning the Judgment of learned Appellate Court are mentioned below;

I. The facts of Petition No.259 of 2024 are that the Petitioner had filed Rent Application No.148 of 2021 before learned Rent Controller-II, Hyderabad against Respondent No.1 (Ayazuddin) for vacating the **shop No.1** constructed over Plot City Survey No.2371/1, Ward-D Pakha Pir Chari (Resham Gali), Hyderabad, which was allowed vide Judgment dated 17.11.2023 and opponent / Respondent No.1 was directed to handover the vacant and peaceful physical possession of demise shop to the applicant / Petitioner within 45 days. Such order of learned Rent Controller was challenged by the Respondent No.1 / Opponent through First Rent Appeal No.73 of 2023 and the Appeal filed by the Respondent No.1

was allowed by the learned Additional District Judge-VI/MCAC-II, Hyderabad vide Judgment dated 10.05.2024, whereby the Judgment of learned Rent Controller dated 17.11.2023 was set-aside, hence this Petition.

II. The facts giving rise to the Petition No.260 of 2024 are that the Petitioner had filed Rent Application No.149 of 2021 before learned Rent Controller-II, Hyderabad against Respondent No.1 (Abdul Samad) for vacating the **shop No.2** constructed over Plot City Survey No.2371/1, Ward-D Pakha Pir Chari (Resham Gali), Hyderabad, which was allowed vide Judgment dated 17.11.2023 and opponent / Respondent No.1 was directed to handover the vacant and peaceful physical possession of demise shop to the applicant / Petitioner within 45 days. Such order of learned Rent Controller was challenged by the Respondent No.1 / Opponent through First Rent Appeal No.74 of 2023 and the Appeal filed by the Respondent No.1 was allowed by the learned Additional District Judge-VI/MCAC-II, Hyderabad vide Judgment dated 10.05.2024, whereby the Judgment of learned Rent Controller dated 17.11.2023 was set-aside, hence this Petition.

III. The facts of Petition No.261 of 2024 are that the Petitioner had filed Rent Application No.150 of 2021 before learned Rent Controller-II, Hyderabad against Respondent No.1 (Muhammad Idrees) for vacating the **shop No.3** constructed over Plot City Survey No.2371/1, Ward-D Pakha Pir Chari (Resham Gali), Hyderabad, which was allowed vide Judgment dated 17.11.2023 and opponent / Respondent No.1 was directed to handover the vacant and peaceful physical possession of demise shop to the applicant / Petitioner within 45 days. Such order of learned Rent Controller was challenged by the Respondent No.1 / Opponent through First Rent Appeal No.75 of 2023 and the Appeal filed by the Respondent No.1 was allowed by the learned Additional District Judge-VI/MCAC-II, Hyderabad vide Judgment dated 10.05.2024, whereby the Judgment of learned Rent

Controller dated 17.11.2023 was set-aside, hence this Petition.

IV. The facts of Petition No.262 of 2024 are that the Petitioner had filed Rent Application No.151 of 2021 before learned Rent Controller-II, Hyderabad against Respondent No.1 (Muhammad Idrees) for vacating the **shop No.4** constructed over Plot City Survey No.2371/1, Ward-D Pakha Pir Chari (Resham Gali), Hyderabad, which was allowed vide Judgment dated 17.11.2023 and opponent / Respondent No.1 was directed to handover the vacant and peaceful physical possession of demise shop to the applicant / Petitioner within 45 days. Such order of learned Rent Controller was challenged by the Respondent No.1 / Opponent through First Rent Appeal No.76 of 2023 and the Appeal filed by the Respondent No.1 was allowed by the learned Additional District Judge-VI/MCAC-II, Hyderabad vide Judgment dated 10.05.2024, whereby the Judgment of learned Rent Controller dated 17.11.2023 was set-aside, hence this Petition.

V. The facts of Petition No.263 of 2024 are that the Petitioner had filed Rent Application No.152 of 2021 before learned Rent Controller-II, Hyderabad against Respondent No.1 (Muhammad Idrees) for vacating the **shop No.5** constructed over Plot City Survey No.2371/1, Ward-D Pakha Pir Chari (Resham Gali), Hyderabad, which was allowed vide Judgment dated 17.11.2023 and opponent / Respondent No.1 was directed to handover the vacant and peaceful physical possession of demise shop to the applicant / Petitioner within 45 days. Such order of learned Rent Controller was challenged by the Respondent No.1 / Opponent through First Rent Appeal No.77 of 2023 and the Appeal filed by the Respondent No.1 was allowed by the learned Additional District Judge-VI/MCAC-II, Hyderabad vide Judgment dated 10.05.2024, whereby the Judgment of learned Rent Controller dated 17.11.2023 was set-aside, hence this Petition.

VI. The facts of Petition No.264 of 2024 are that the Petitioner had filed Rent Application No.153 of 2021 before learned Rent Controller-II, Hyderabad against Respondent No.1 (Abdul Samad) for vacating the **shop No.6** constructed over Plot City Survey No.2371/1, Ward-D Pakha Pir Chari (Resham Gali), Hyderabad, which was allowed vide Judgment dated 17.11.2023 and opponent / Respondent No.1 was directed to handover the vacant and peaceful physical possession of demise shop to the applicant / Petitioner within 45 days. Such order of learned Rent Controller was challenged by the Respondent No.1 / Opponent through First Rent Appeal No.78 of 2023 and the Appeal filed by the Respondent No.1 was allowed by the learned Additional District Judge-VI/MCAC-II, Hyderabad vide Judgment dated 10.05.2024, whereby the Judgment of learned Rent Controller dated 17.11.2023 was set-aside, hence this Petition.

VII. The facts of Petition No.265 of 2024 are that the Petitioner had filed Rent Application No.154 of 2021 before learned Rent Controller-II, Hyderabad against Respondent No.1 (Muhammad Idrees) for vacating the **shop No.7** constructed over Plot City Survey No.2371/1, Ward-D Pakha Pir Chari (Resham Gali), Hyderabad, which was allowed vide Judgment dated 17.11.2023 and opponent / Respondent No.1 was directed to handover the vacant and peaceful physical possession of demise shop to the applicant / Petitioner within 45 days. Such order of learned Rent Controller was challenged by the Respondent No.1 / Opponent through First Rent Appeal No.79 of 2023 and the Appeal filed by the Respondent No.1 was allowed by the learned Additional District Judge-VI/MCAC-II, Hyderabad vide Judgment dated 10.05.2024, whereby the Judgment of learned Rent Controller dated 17.11.2023 was set-aside, hence this Petition.

2. The Petitioner filed Rent Applications against Respondent No.1 of all Petitions *respectively* stating therein that the applicant is real and

absolute owner/landlord of demise premises i.e. **Shop No.1 to 7** constructed over Plot City Survey No.2371/1, Ward-D Pakha Pir Chari (Resham Gali), Hyderabad and the Respondents had obtained the demise shop(s) respectively from the applicant on rent and they are paying monthly rent. Further stated that Petitioner demanded from opponent to vacate the demise premises on the ground that applicant needs accommodation to his family members and wants to reconstruct a new building, but they refused, therefore, the Respondents were served with legal notice. The Petitioner further contended in his Rent Application(s) that the construction of property is old and small as well as uncomfortable for residential purpose of his large family, therefore, he wants raise multi stories building for his personal use and for such purpose he had also obtained necessary legal permission from the concerned authority for demolition of the same alongwith approved proposed building plan from Sindh Building Control Authority (SBCA) vide letter dated 02.02.2021, hence preferred application(s) before learned Rent Controller, whereby the Petitioner succeeded to get eviction order in his favour and all above mentioned Rent Application(s) were allowed by the learned Rent Controller-II, Hyderabad but such order of Rent Controller was reversed by the learned Appellate Court on Appeal(s) filed by the Respondent(s) respectively, therefore, the Petitioner being aggrieved and dissatisfied with the order of learned Appellate Court has preferred all these Petitions and seeks eviction of Respondents from demise premises i.e. **Shop No.1 to 7** constructed over Plot City Survey No.2371/1, Ward-D Pakha Pir Chari (Resham Gali), Hyderabad.

3. Both the learned counsel for Petitioner as well as Respondent No.1 in all these Petitioners vehemently argued the matter at some length and submitted case laws respectively, which were taken on record.

4. The learned counsel for Petitioner contended that the Judgment passed by the learned Appellate Court is against the law and facts; that the learned Appellate Court even failed to assign any valid reason or justification for setting aside the Judgment of learned Rent Controller passed in favour of Petitioner after discussing the entire material as well as evidence available on record; that the Petitioner is landlord and wants to reconstruct his property, but the tenants are not vacating the

premises; that the Judgment of learned Rent Controller was very much speaking and was based upon reasonable grounds, but the learned Appellate Court had decided the Appeals against Petitioner in a slip shod manner without application of judicial mind, which are liable to be set-aside / reversed; that the findings of learned Appellate Court are based upon misreading and non-reading of evidence and material available on record; that the learned Appellate Court had discussed only facts and reversed the findings of learned Rent Controller without any plausible observation, therefore, he prayed that the Judgment of learned Appellate Court may be set-aside and Petitions may be allowed.

5. On the other hand, learned counsel for Respondents in all Petitions argued that the learned Rent Controller had committed gross illegality and irregularity while allowing the Rent Applications, however, the observations of learned Appellate Court are very much clear and in accordance with law; that the learned Appellate Court had rightly passed the Judgment and reversed the findings of learned Rent Controller, which were nothing but against the law and facts. He further contended that the report of Commissioner is available on record, which shows that the stability of the building is absolutely in good condition; that the Petitioner has already transferred the shop by way of sale and subdivision and proof of the same has been submitted with these Petitions; that the Respondent had prayed for calling the City Surveyor to produce the title of the property, which is not in the name of the present Petitioner and the applicant / Petitioner has suppressed real facts, therefore, the Petitions filed by the Petitioner may be dismissed.

6. On his turn, learned A.A.G being a formal party submits that since the matter is in between the private parties and no Government interest is involved, therefore, the matter may be decided on merits in accordance with law.

7. Heard learned counsel for the parties and learned A.A.G; perused the record. At the outset, it may be observed that the petitions before this Court arise out of rent matters, wherein learned Rent Controller-II, Hyderabad had allowed Rent Applications No.148 to 154 of 2021 vide judgment dated 17.11.2023, whereas learned Additional District Judge-VI/MCAC-II, Hyderabad (Appellate Court) set aside the said judgments

vide separate judgments dated 10.05.2024 in First Rent Appeals No.73 to 79 of 2023; hence, the petitioner has invoked the Constitutional jurisdiction of this Court.

8. It is trite that jurisdiction under Article 199 of the Constitution is supervisory and not appellate. This Court does not ordinarily re-appraise evidence as a court of first appeal. Interference is warranted only where the impugned order/judgment is coram non judice, suffers from jurisdictional defect, is based upon patent illegality, or is vitiated by perversity arising out of gross misreading or non-reading of material evidence. In rent matters, the appellate forum under the rent law is treated as the final fact-finding forum, therefore Article 199 cannot be pressed into service as a substitute. [Shakeel Ahmed and another v. Muhammad Tariq Farogh and others (2010 SCMR 1925; Messrs Atif Ali and another v. Mst. Noor Jahan through Attorney and 2 others (2015 CLC 310); Noman Saleem v. Rehmat Elahee & others (C.P. No. S-1405 of 2024, Principal Seat).

9. From the pleadings as reflected in the record placed before this Court, the petitioner's case in substance was: (i) he is landlord/owner of Shop No.1 to 7 constructed over Plot City Survey No.2371/1, Ward-D Pakha Pir Chari (Resham Gali), Hyderabad; (ii) respondents/tenants are occupying the said shops; (iii) the premises are required by him for accommodation of his family members and for reconstruction of a new building; and (iv) he has obtained legal permission/sanction and approved proposed building plan from SBCA vide letter dated 02.02.2021.

10. The Sindh Rented Premises Ordinance, 1979 consents are required by landlord for reconstruction or erection of a new building at the site, and the landlord has obtained necessary sanction for such purpose. Thus, mere desire is not enough; the requirement must be bona fide, supported by requisite sanction/approval, and the Court must be satisfied that the plea is genuine and not a cloak to secure eviction.

11. In view of the arguments advanced, following questions arise:

(i) Whether the petitioner established his status as landlord qua each respondent and the demise premises;

(ii) Whether the requirement for reconstruction/personal need was proved as bona fide;

(iii) Whether the appellate court committed misreading/non-reading of evidence or acted without lawful authority in reversing the rent controller; and

(iv) What is the effect of respondents' plea that the building was found stable by Commissioner and that the petitioner had already transferred the shops by sale/sub-division and suppressed material facts.

12. So far as the rent jurisdiction is concerned, the Rent Controller is not a court to finally adjudicate complicated questions of title. The primary inquiry is whether relationship exists and whether the applicant is entitled to seek eviction within the meaning of rent law. However, where a serious challenge is raised that the applicant is not the landlord at all, and such plea is supported by *prima facie* material (particularly where the applicant is alleged to have alienated the very premises/shops), then the Court must examine whether the applicant still retains the locus to seek eviction and whether the plea of need is bona fide.

13. In the instant case, the respondents specifically asserted before this Court that (a) the report of Commissioner is available showing that the stability of the building is in good condition; (b) the petitioner has already transferred the shop(s) by way of sale and sub-division and proof has been submitted; and (c) the respondents had prayed for calling the City Surveyor to produce title as the property is not in the name of the petitioner, and suppression has been alleged. These objections go to the root—both on bona fides and locus.

14. Even where sanction/approval exists, the Court is required to be satisfied about bona fide—(i) intends to reconstruct/erect a new building; (ii) that the proposed activity is not a mere pretext; and (iii) that the landlord is in a position, and has a real plan, to undertake such reconstruction. Where the landlord's conduct indicates otherwise—such as alienation of the property/shops during or around the proceedings, or inconsistent stands—such conduct is a relevant circumstance which may legitimately weigh against the plea of bona fide requirement.

15. The respondents' reliance on Commissioner's report (that the building is stable) does not by itself defeat an eviction plea based on "reconstruction/new building", because the statutory ground is not confined only to dangerous/unsafe structures. Nonetheless, such report is still a relevant piece of evidence to test the credibility of any assertion that the existing structure is so old/small/uncomfortable that demolition is necessary, and to evaluate whether the claimed urgency is genuine or exaggerated.

16. Learned Appellate Court, while reversing the Rent Controller, is obliged to record reasons, deal with material evidence, and address the grounds. However, once the appellate court has evaluated the record and reached a conclusion on bona fides/locus, this Court in constitutional jurisdiction does not substitute its own view merely because another view is possible. The petitioner must show perversity, i.e., that the appellate conclusion is such that no reasonable person could reach it on the record, or that a vital piece of evidence was ignored/read wrongly.

17. In the present petitions, the petitioner's principal grievance is that the appellate court decided appeals in a slipshod manner and reversed the Rent Controller's findings without plausible observation. However, the respondents have raised material objections concerning (i) locus/landlordship, (ii) alleged transfer of shops by sale/sub-division, and (iii) Commissioner's report; they directly relate to the genuineness of the claimed requirement and the petitioner's entitlement to seek eviction. In such circumstances, where the appellate court chose the eviction orders, it cannot be said, on the touchstone of Article 199, that the appellate court acted without jurisdiction or that its conclusion is perverse merely because the Rent Controller had taken a different view.

18. Litigant seeking discretionary constitutional relief must come with clean hands and disclose material facts. If the petitioner, during pendency, has transferred the shops or carved out sub-divisions in a manner inconsistent with the pleaded need "for his own accommodation" and "for reconstruction for personal use", such conduct seriously dents the bona fides of the claim and also raises a genuine question whether he continues to be the person entitled to seek eviction as landlord. The respondents assert that proof of such transfer has been placed. In the

presence of such material, interference under Article 199 (to restore eviction orders) would be wholly unsafe.

19. For the foregoing reasons, this Court is not persuaded that the impugned judgments by learned Additional District Judge-VI/MCAC-II, Hyderabad in First Rent Appeals No.73 to 79 of 2023 suffer from jurisdictional defect, patent illegality, or perversity warranting interference under Article 199 of the Constitution. The petitions, which in substance seek a re-appraisal of facts and evidence, are not maintainable to that extent, as Article 199 cannot be used as a substitute of another appeal against an appellate order in rent matters. Consequently, C.Ps Nos.-S-259 to 265 of 2024 are **dismissed**. The impugned Judgments dated 10.05.2024 passed by the learned Appellate Court are maintained. No order as to costs.

JUDGE

Ali.