

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

**C.P No. S-655 of 2025**

[Ghulam Ali v. Mubarak Ali and others.]

Petitioner : Ghulam Ali through Mr. Abdul Razaque Dasti, Advocate.

Respondent No.1 : Mubarak Ali through Mr. Mushtaque Hussain Khaskheli, Advocate.

Date of Hearing : **13.04.2026**

Date of Judgment : **13.04.2026**

**JUDGMENT**

**RIAZAT ALI SAHAR. J,** - The instant Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 has been filed by the petitioner assailing the order dated 16.09.2024 passed by the learned Additional District Judge-II, Shaheed Benazirabad in First Rent Appeal No.01 of 2025, whereby the appeal preferred by the petitioner was dismissed and the order dated 30.04.2024 passed by the learned Rent Controller-III, Shaheed Benazirabad was maintained. The petitioner is seeking for the following reliefs:-

- a)** Set aside the impugned order dated 16.09.2025 passed by the learned 2nd Additional District Judge, Shaheed Benazirabad, in First Rent Appeal No. 01 of 2025;
- b)** Set aside the impugned order dated 30.04.2024 passed by the learned Rent Controller-II, Shaheed Benazirabad, in Rent Application No. 02 of 2022;
- c)** Suspend the operation of both impugned orders dated 30.04.2024 and 16.09.2025 during the pendency of this petition, and restrain the respondents, their agents, or any other person acting on their behalf from taking any coercive action or dispossessing the petitioner from the premises in question, namely House constructed on City Survey No. 1766, admeasuring 766.06

square feet, situated at Ward-B, Mollah Munawabad, Nawabshah;

- d)** Stay the proceedings and further operation of Execution Application No. 03 of 2024, pending before the learned Senior Civil Judge-II / Rent Controller, Shaheed Benazirabad, till final decision of this constitutional petition;
- e)** Remand the matter back to the learned Rent Controller for decision afresh in accordance with law, after providing full opportunity of hearing and evidence to both parties;
- f)** Grant any other relief(s) deemed just and proper in the circumstances of the case.

**2.** The background of the case is that the dispute pertains to a residential house bearing City Survey No.1766, situated at Ward-B, Mollah Munawabad, Nawabshah. The respondent No.1 instituted a rent application under Section 15 of the Sindh Rented Premises Ordinance, 1979, asserting his ownership and alleging that the petitioner was inducted as a tenant on monthly rent of Rs.8,000/- and had committed willful default since June 2021, besides requiring the premises for personal *bona fide* use. The petitioner contested the claim by denying the relationship of landlord and tenant and asserting his own ownership, while also referring to a civil dispute regarding title. The learned Rent Controller, after recording evidence, allowed the application on the grounds of default and personal need and directed eviction. The appeal filed by the petitioner was dismissed by the appellate Court on the ground of limitation, leading to the present petition.

**3.** Learned counsel for the petitioner contended that both the Courts below acted illegally and without lawful jurisdiction in deciding a matter involving disputed title, which could only be adjudicated by a competent Civil Court. He contended that no landlord-tenant relationship existed between the parties and the alleged rent agreement was forged and unproved in accordance with law. The learned Rent Controller allegedly misread and non-read the evidence and decided the matter *ex-parte* without affording proper opportunity to the petitioner, who was prevented by illness. He further contended that the finding regarding ownership and personal *bona fide* need is unsupported by credible evidence.

Learned counsel contended that the pendency of civil litigation ousted the jurisdiction of the Rent Controller. He further contended that dismissal of appeal on limitation was mechanical, as sufficient cause supported by medical record was available. The impugned orders were stated to be violative of Articles 4, 9, 10-A, 23 and 24 of the Constitution and liable to be set aside.

**4.** Conversely, learned counsel for respondent No.1 supported the impugned orders and contended that the petitioner was a tenant who had admittedly failed to contest the proceedings despite opportunities, resulting in un-rebutted evidence in favour of the respondent. He contended that the respondent had duly proved his ownership through registered sale deed and supporting evidence, while the petitioner failed to produce any document in support of his alleged ownership. The relationship of landlord and tenant, execution of rent agreement, and default in payment of rent were established through oral and documentary evidence, which remained unchallenged. He further contended that the plea of pending civil suit was misconceived, as the same had already been withdrawn. Learned counsel contended that the appellate Court rightly dismissed the appeal as time-barred, as no sufficient cause was shown for condonation of an inordinate delay of more than nine months. The concurrent findings of fact, being based on evidence, do not call for interference in constitutional jurisdiction.

**5.** I have heard learned counsel for the parties at considerable length and have carefully perused the record as well as the impugned orders passed by the learned Courts below.

**6.** At the very outset, it is to be noted that the jurisdiction of this Court under Article 199 of the Constitution is supervisory in nature and is not intended to re-appraise evidence or disturb concurrent findings of fact unless the same are shown to be perverse, arbitrary, or suffering from jurisdictional defect. The petitioner has assailed both the orders primarily on factual grounds, which have already been examined by the learned Rent Controller and, to the extent permissible, by the appellate Court.

**7.** The record reflects that the respondent No.1 had produced oral as well as documentary evidence in support of his

claim, including the registered sale deed, extract entries, rent agreement and legal notice. The said evidence was duly exhibited and remained unshaken due to the failure of the petitioner to cross-examine the witnesses or lead rebuttal evidence. It is a settled principle of law that where a party abstains from contesting the proceedings or fails to challenge the evidence produced by the opposite side, the same can safely be relied upon by the Court. The learned Rent Controller, therefore, committed no illegality in recording findings in favour of the respondent regarding ownership, relationship of landlord and tenant and default in payment of rent.

**8.** As regards the contention of disputed ownership, it is observed that although the petitioner had taken such plea, he failed to substantiate the same through any cogent evidence. Mere assertion of ownership, without supporting documents, is insufficient to displace documentary evidence produced by the respondent. Moreover, the record clearly indicates that the civil suit referred to by the petitioner had already been withdrawn, thus, negating the argument regarding pendency of title dispute. Even otherwise, the Rent Controller is competent to examine the existence of landlord-tenant relationship for the purposes of rent proceedings and such determination does not amount to final adjudication of title. More so, the Honourable Supreme Court vide Order dated 29.01.2026 passed in the case of Nawab Khan and another v. Muhammad Yousaf and others [C.P.L.A. No.806-P/2018 & CMA No.1877-P of 2018] settled the controversy. In paragraph-7 thereof, the Honourable Supreme Court summarized the legal position in clear terms that:

- (i) A tenant who subsequently asserts acquisition of ownership rights is bound by estoppel under Article 115 of the Qanun-e-Shahadat Order, 1984, and cannot deny the landlord's title while continuing in possession as tenant. If he intends to contest proprietary title, he must first surrender possession and thereafter seek adjudication of his claim.
- (ii) An ejectment petition against such tenant remains maintainable, since the mere assertion or alleged acquisition of ownership rights does not terminate the tenancy nor does it oust the jurisdiction of the Rent Controller.
- (iii) Where the tenant claims to have purchased a share or acquired co-ownership, the proper remedy is not to resist ejectment proceedings but to seek recourse through a civil suit for partition.

**9.** The ground relating to personal *bona fide* need has also been rightly decided by the learned Rent Controller. The statement of the landlord, if found consistent and un-rebutted, is sufficient to establish such need. In the present case, nothing has been brought on record to indicate *mala fide* on the part of the respondent, and therefore, the finding on this aspect does not suffer from any legal infirmity.

**10.** Coming to the appellate order dated 16.09.2025, it is evident that the appeal was filed after a delay of more than nine months beyond the prescribed limitation period of 30 days under Section 21 of the Sindh Rented Premises Ordinance, 1979. The explanation furnished by the petitioner was based on medical documents, which, upon scrutiny, did not cover the relevant period of delay and were found insufficient to constitute “sufficient cause” within the meaning of law. The appellate Court has rightly observed that the delay was inordinate and unexplained, and therefore, the appeal was barred by time.

**11.** It is a settled proposition that law of limitation is not merely technical but has to be applied with full rigour, particularly where negligence or inaction on the part of a litigant is apparent. The petitioner failed to demonstrate due diligence in pursuing his remedy, and the appellate Court cannot be faulted for dismissing the appeal on such ground. No illegality or perversity has been pointed out in the reasoning adopted by the appellate Court while declining condonation of delay. The contention that the petitioner was not afforded proper opportunity is also devoid of substance. The record shows that the petitioner was duly served and had initially participated in the proceedings but subsequently failed to pursue the matter. The closure of his side of evidence was a consequence of his own conduct and cannot be attributed to any procedural irregularity on the part of the Court.

**12.** In constitutional jurisdiction, interference is warranted only where the impugned orders are *coram non iudice*, suffer from jurisdictional defect, or are patently illegal. In the present case, both the Courts below have acted within their lawful jurisdiction, have appreciated the evidence on record and have recorded findings

which are neither perverse nor arbitrary. The petitioner has failed to make out any case for interference by this Court.

**13.** For what has been discussed above, the instant Constitutional Petition, being devoid of merit is hereby **dismissed**. The impugned order dated 16.09.2025 passed by the learned Additional District Judge-II, Shaheed Benazirabad, as well as the order dated 30.04.2024 passed by the learned Rent Controller-II, Shaheed Benazirabad, are **maintained**. No order as to costs.

**JUDGE**

\*Abdullah Channa/PS\*