

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

C.P No. S-606 of 2025

[Nisar Ahmed v. Mst. Afshan Jabeen and others]

Petitioner : Nisar Ahmed through
Mr. Muhammad Zainuddin
Baloch, Advocate.

Respondents : None appeared.

Date of Hearing : **30.01.2026**

Date of Judgment : **20.04.2026**

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 judgment dated 26.08.2025 passed by the learned District Judge, Hyderabad in First Rent Appeal No.16 of 2025, whereby the appeal preferred by the petitioner was dismissed and the order dated 01.03.2025 passed by the learned Rent Controller-VIII, Hyderabad was maintained. The petitioner is seeking for the following reliefs:-

- a)** Set aside the judgment dated 01.03.2025 passed by the Senior Civil Judge & Rent Controller-VIII, Hyderabad, as well as the order dated 26/8/2025 passed by the learned Appellate Court;
- b)** Remand the matter to the Rent Controller with directions to provide the Petitioner full opportunity to file objections and lead evidence in accordance with law;
- c)** Grant interim. relief by suspending the operation of the Impugned judgments pending disposal of this petition; and
- d)** Grant any other relief deemed just and proper in the circumstances.

2. The background of the case is that the petitioner is a tenant of Shop No.5 situated at Latifabad, Hyderabad for over two decades. The respondents, claiming to be co-owners, instituted Rent Case No.7 of 2024 under the Sindh Rented Premises Ordinance, 1979 seeking ejectment on the grounds of alleged default in payment of rent, non-payment of utility charges and personal *bona fide* need. Upon service, the petitioner appeared through counsel; however, his request for time to file written objections was declined and he was debarred from filing the same, where after the matter proceeded *ex-parte*. The respondents led their evidence through affidavits and although the petitioner's application for restoration was dismissed, he was allowed to cross-examine the respondents' witnesses. During cross-examination, certain admissions were allegedly made by respondent No.1, but subsequently the respondents failed to appear to conclude their evidence, leading the trial court to close their side and fix the matter for arguments. Without affording the petitioner an opportunity to lead his own evidence, the learned Rent Controller allowed the ejectment application vide judgment dated 01.03.2025. The petitioner preferred First Rent Appeal No.16 of 2025, which was dismissed by the learned District Judge, Hyderabad on 26.08.2025, maintaining the findings of the trial court. Consequently, the petitioner invoked constitutional jurisdiction under Article 199 of the Constitution, assailing both concurrent judgments on the grounds of denial of fair trial, misreading of evidence, and improper exercise of jurisdiction.

3. Learned counsel for the petitioner contended that the impugned judgments suffer from illegality and material irregularity, as the petitioner was unlawfully deprived of his right to file written statement and to produce evidence in his defence, in violation of Article 10-A of the Constitution. He contended that despite crucial admissions made by respondent No.1 during cross-examination negating the allegation of

default, the courts below failed to consider the same. He further submitted that no default was committed, rather the respondents had refused to accept rent to create a ground for eviction and even the claim of utility dues was unsubstantiated. He further contended that the respondents failed to establish *bona fide* personal need and that the appellate court dismissed the appeal in a mechanical manner without independent reasoning. Learned counsel thus prayed for setting aside of the impugned judgments or remand of the case for decision afresh after affording full opportunity to the petitioner.

4. Despite issuance of notices, none appeared on behalf of the respondents to contest the present petition. The Court, being satisfied that notices were duly served, proceeded to decide the matter in their absence after hearing the learned counsel for the petitioner and examining the available record.

5. It is a settled principle of law that in exercise of constitutional jurisdiction under Article 199 of the Constitution, this Court does not sit as a court of appeal to reappraise or re-evaluate the evidence. Interference is warranted only where the impugned orders suffer from jurisdictional defect, patent illegality, or are the result of misreading or non-reading of material evidence. Concurrent findings of fact recorded by the courts below are ordinarily not to be disturbed unless shown to be perverse or arbitrary.

6. A careful perusal of the record reflects that the relationship of landlord and tenant between the parties was admitted and the jurisdiction of the Rent Controller was properly invoked. The plea regarding non-maintainability of the rent application on the basis of co-ownership was rightly repelled by the courts below in view of settled law that any co-owner is competent to seek ejectment of a tenant. The contention relating to absence of prior notice also carries no force, as the filing of ejectment proceedings itself constitutes

sufficient notice, particularly when the petitioner was admittedly aware of the respondents' intention.

7. As regards the ground of default, the record demonstrates that the petitioner had failed to comply with the direction to deposit rent before the Nazir, which fact stands corroborated by the official report. Such non-compliance constitutes willful default within the meaning of law, justifying ejectment. Even otherwise, the respondents successfully established their bona fide personal need through sworn testimony, which remained unshaken and un-rebutted. It is well-settled that the statement of a landlord regarding personal requirement carries a presumption of truth unless convincingly rebutted, which the petitioner failed to do.

8. The grievance of denial of opportunity also does not advance the petitioner's case. The record reveals that the petitioner was debarred after failure to file written statement within time and his restoration application was dismissed through a speaking order, which attained finality as it was never challenged independently. Nevertheless, he was afforded an opportunity to cross-examine the respondents' witness, which he availed. In such circumstances, the plea of denial of fair trial appears to be misconceived. The petitioner cannot be permitted to take advantage of his own procedural lapses. Furthermore, the appellate court has examined the entire record and concurred with the findings of the trial court, assigning cogent reasons. No material illegality, misreading or non-reading of evidence has been pointed out which may justify interference by this Court. The findings recorded by both courts below are based on proper appreciation of evidence and settled principles of law.

9. For what has been discussed above, I am of the considered opinion that the impugned judgments do not suffer from any jurisdictional defect, illegality, or perversity warranting interference in constitutional jurisdiction. The

petitioner has failed to establish denial of fair trial or miscarriage of justice. Rather, the record reflects that adequate opportunities were available but not properly availed. The concurrent findings regarding default and *bona fide* personal need are well-founded and supported by evidence. Accordingly, the constitutional petition, being devoid of merit, is **dismissed**. The impugned judgment dated 01.03.2025 passed by the learned Rent Controller as well as the appellate judgment dated 26.08.2025 are hereby **maintained**. No order as to costs.

10. Let a copy of this order be transmitted to the trial court for compliance.

JUDGE

Abdullah Channa/PS