

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

C.P NO. S-283 of 2024

[Abdul Kalam v. Imran Khan & others]

Counsel for Petitioners:	Mr. Irfan Ahmed Qureshi, Advocate
Counsels/ Representatives for Respondents:	Mr. Muhammad Hanif Shaikh, Advocate Mr. Muhammad Ismail Bhutto, Additional A.G. Sindh.
Date of Hearing:	06.04.2026
Date of Judgment:	20.04.2026

JUDGMENT

RIAZAT ALI SAHAR, J: - Through the instant Constitutional Petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the Petitioner seeks the indulgence of this Court against the concurrent findings recorded by the learned Rent Controller and the learned Appellate Court, whereby the ejection application filed under Section 15 of the Sindh Rented Premises Ordinance, 1979 was allowed on the alleged grounds of default in payment of rent and personal bona fide requirement, and the First Rent Appeal preferred by the Petitioner was dismissed vide impugned Judgment dated 26.03.2024. Thus, seeking following reliefs:

- “a) That it be ordered and thereby set aside the impugned Judgments passed by two courts below as the same were not passed on merit but through a fiction (short cut method) without recording evidence of the petitioner, passed the Judgments illegally and unlawfully.*
- b) That it may also be passed Order and direct the Learned Trial Court to record the evidence and decide the matter on merits and allow the Constitution Petition.*
- c) Any other relief which this Honorable Court fit and proper be also awarded to the petitioner.”*

2. The detailed background of the matter is that the respondent/applicant instituted a Rent Application under Section 15 of the Sindh Rented Premises Ordinance, 1979 before the learned Rent Controller-VIII, Hyderabad, seeking eviction of the petitioner from Shop No.K-7, measuring approximately 144 sq.ft, situated at Jamia Cloth Market, Unit No.08, Latifabad, Hyderabad, on the alleged grounds of default in payment of rent and personal bona fide requirement. It was the case of the respondent that the demised premises originally belonged to his father by virtue of a registered sale deed dated 04.08.1995, and upon his demise, the property devolved upon his legal heirs, including the respondent. The respondent alleged that the petitioner, after the death of his father, agreed to continue tenancy on enhanced rent but failed to execute a fresh rent agreement and defaulted in payment of rent from April 2022 onwards, despite service of legal notice. Conversely, the petitioner contested the claim by filing written statement, wherein while admitting the relationship of landlord and tenant, he denied the alleged rate of rent and default, contending that rent was being regularly deposited through MRC proceedings and further asserted that a substantial goodwill/pagri amount had been paid at the inception of tenancy. The petitioner also disputed the claim of personal *bona fide* need, alleging that the respondent owned multiple shops and had *mala fide* intentions to evict tenants for extracting premium. Upon framing of issues, the parties led their respective evidence; however, the learned Rent Controller vide Judgment dated 11.09.2023 allowed the ejectment application on both counts i.e. default and personal *bona fide* need, and directed eviction of the petitioner. The petitioner, being aggrieved, preferred First Rent Appeal No.51/2023, which too was dismissed by the learned Appellate Court vide Judgment dated 26.03.2024, thereby maintaining the findings of the trial Court, hence, the instant constitutional petition.

3. The learned counsel for the petitioner contended that the impugned Judgments passed by the learned Rent Controller

as well as the learned Appellate Court are patently illegal, arbitrary and based upon misreading and non-reading of material evidence available on record. It was argued that both the Courts below have failed to appreciate that no default in payment of rent was ever committed by the petitioner, as the rent was continuously being deposited through MRC proceedings, which fact alone was sufficient to negate the allegation of wilful default, yet the same was completely ignored. He further contended that the alleged enhancement of rent from Rs.9,700/- to Rs.60,000/- was never proved in accordance with law and no cogent evidence was produced by the respondent to substantiate such claim, thus, the findings on this aspect are without lawful justification. Learned counsel also submitted that the ground of personal *bona fide* requirement was neither established nor supported by any credible evidence, as the respondent admittedly owns several other shops and failed to demonstrate any genuine need or capacity to start the alleged business, rendering such plea *mala fide* and merely a device to evict the petitioner for ulterior purposes. It was further argued that the Courts below have decided the matter in a slipshod and mechanical manner without proper appreciation of pleadings and evidence, and the Appellate Court, instead of independently reappraising the evidence, merely affirmed the findings of the trial Court through a stereotyped judgment devoid of proper reasoning. Learned counsel emphasized that the impugned judgments suffer from jurisdictional defects, material irregularities and perversity, therefore, the same are liable to be set aside by this Court in exercise of its constitutional jurisdiction.

4. Conversely, the learned counsel for the respondent supported the impugned Judgments and contended that the same are well-reasoned and based upon proper appreciation of evidence available on record, thus, warranting no interference by this Court in exercise of its constitutional jurisdiction. It was argued that the petitioner had admittedly failed to pay rent from April 2022 onwards and such persistent default was duly proved

before the learned Rent Controller through documentary as well as oral evidence, hence, the order of eviction on the ground of default is fully justified. Learned counsel further submitted that mere deposit of rent through MRC proceedings, particularly after initiation of litigation, does not absolve the petitioner from the consequences of earlier default, especially when such deposits were neither timely nor in accordance with agreed terms. It was also contended that the respondent had successfully established his personal *bona fide* requirement for starting his own business in the demised premises, and the law does not require proof of prior experience or existing business for establishing such need. Learned counsel maintained that both the Courts below have concurrently recorded findings of fact after proper evaluation of evidence, which are not open to interference in constitutional jurisdiction unless shown to be perverse or without jurisdiction, which is not the case here. It was lastly contended that the instant petition is nothing but an attempt to prolong possession of the premises and delay execution of lawful orders, therefore, the same is liable to be dismissed.

5. Heard the learned counsels for both parties at considerable length and perused the material available on record, including the pleadings, documentary evidence, depositions, and impugned judgments.

6. In the present matter, the relationship of landlord and tenant between the parties was never seriously disputed. The controversy essentially revolved around two aspects, (i) whether the petitioner had committed default in payment of rent and (ii) whether the respondent had established his personal *bona fide* requirement. A perusal of the impugned judgments reflects that both the learned Courts below have dealt with these issues after taking into consideration the pleadings of the parties, the oral as well as documentary evidence adduced by them, and thereafter returned concurrent findings in favour of the respondent. The learned counsel for the petitioner has attempted to assail such findings by contending that rent was

being deposited through MRC proceedings and that the plea of personal requirement was a mere pretext; however, such submissions in substance call upon this Court to re-evaluate the evidence afresh, which exercise is not permissible in constitutional jurisdiction unless it is first demonstrated that the appreciation of evidence made by the Courts below suffers from patent illegality or perversity.

7. At the very outset, it is deemed appropriate to reiterate the well-settled principle of law that the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 cannot be invoked as a substitute for a statutory appeal, nor can it be utilized to re-appraise evidence or to sit in superintendence over findings rendered by the competent appellate forum under special laws. The jurisdiction of this Court is supervisory, not appellate, and is circumscribed by the legislative scheme enacted by the Sindh Rented Premises Ordinance, 1979.

8. The Honourable Supreme Court in the seminal judgment **Shakeel Ahmed and another v. Muhammad Tariq Farogh and others (2010 SCMR 1925)** has conclusively settled that the appellate authority constituted under the Sindh Rented Premises Ordinance, 1979 is the final statutory forum, and the remedy under Article 199 cannot be employed to challenge the correctness of findings simply because an aggrieved party seeks a further round of scrutiny. The relevant extract reads as follows:

“8. ... that jurisdiction under Article 199 of the Constitution cannot be invoked as a substitute of another appeal against the order of the appellate Court. Therefore, mere fact that upon perusal of evidence, High Court came to another conclusion would not furnish a valid ground for interference in the order of the appellate Court, which is final authority in the hierarchy of rent laws i.e. Sindh Rented Premises Ordinance, 1979.”

This authoritative pronouncement was subsequently followed by this Court in **Messrs Atif Ali and another v. Mst. Noor Jahan through Attorney and others (2015 CLC 310)**, wherein the same principle was reaffirmed—that the High Court cannot be converted into a fact-finding or appellate forum in rent matters merely upon the

dissatisfaction of a litigant with the result before the appellate authority.

9. The same view has consistently been endorsed in later judgments of this Court, including **C.P. No. S-520 & 521 of 2019 (Principal Seat)**, as well as **Noman Saleem v. Rehmat Elahee & others (C.P. No. S-1405 of 2024, Principal Seat)**. Collectively, this line of authorities underscores that the statutory hierarchy under the Sindh Rented Premises Ordinance, 1979 is complete in itself; the appellate authority is designated as the *final forum* and its judgment cannot be reopened through constitutional proceedings except on the most exceptional grounds of jurisdictional defect, mala fides, or violation of law. In view of the settled jurisprudence, any attempt to revisit the factual findings or re-evaluate the evidence already adjudicated upon by the appellate authority would amount to circumventing the legislative framework, which is impermissible in constitutional jurisdiction.

10. So far as the question of default is concerned, it is settled that in rent matters, the tenant is under a legal obligation to tender and pay rent regularly, honestly and within time. The defence that rent was subsequently deposited in MRC proceedings does not by itself wipe out an earlier default, particularly where the Courts below, on appraisal of the record, have found that such deposits were not sufficient to cure the default already committed. The expression “default” in rent law has to be examined with reference to the timely discharge of obligation by the tenant and not merely by showing deposits made after the dispute had already arisen. In the present case, both the learned Courts below have concurrently found that the petitioner had failed to establish regular and timely payment of rent in the manner required by law. No material has been pointed out before this Court to show that the said finding is based upon no evidence, or that any vital piece of admissible evidence was ignored, or that inadmissible material was relied upon. Mere disagreement with the conclusion drawn by the

Courts below does not furnish a ground for constitutional interference.

11. Equally devoid of force is the contention of the petitioner with regard to the alleged non-proof of enhancement of rent. Even otherwise, once the learned Rent Controller had before it the evidence led by the parties and, after evaluating the same, came to the conclusion that the tenant was in default, the precise controversy regarding the claimed enhanced rent could not be reopened in writ jurisdiction as though this Court were sitting as a regular Court of appeal. The petitioner was required to demonstrate that the conclusion of default was wholly unsupported by record or was based on a manifest misreading of evidence. No such exceptional circumstance has been shown. The arguments advanced on behalf of the petitioner are essentially directed towards seeking a fresh factual determination, which is impermissible.

12. Coming to the ground of personal *bona fide* requirement, it is by now a settled principle of rent law that the landlord is the best judge of his requirement, provided the same is shown to be genuine, honest and not tainted with *mala fide*. The law does not oblige the landlord to prove that he must first exhaust every other possible accommodation or that he should already be running the business which he intends to commence in the demised premises. What is required is that the need set up must appear natural, sincere and *bona fide*. In the instant matter, the learned Rent Controller, after evaluating the evidence, accepted the plea of the respondent that he required the premises for his own use and occupation for business purposes, and the learned Appellate Court, upon reappraisal, maintained such finding. The mere assertion of the petitioner that the respondent possessed other shops or had *mala fide* intentions was not sufficient in itself unless substantiated through convincing evidence. Both the Courts below have found against the petitioner on this score. Such concurrent finding regarding *bona fide* personal requirement is again a pure finding

of fact, which cannot be lightly disturbed in constitutional jurisdiction.

13. It is also significant that the impugned appellate judgment cannot be termed to be mechanical merely because it affirmed the conclusion of the trial Court. An appellate Court is not required to reproduce each and every line of evidence in elaborate detail so long as it independently applies its mind to the controversy and records reasons supporting its conclusion. A reading of the impugned judgments shows that the learned Courts below remained alive to the controversy, addressed the material issues and recorded findings thereon. Learned counsel for the petitioner has not been able to point out any jurisdictional defect, any violation of mandatory provision of law, or any such perversity which may justify interference by this Court.

14. The consistent view of the superior Courts has been that constitutional jurisdiction is not to be exercised as a substitute for a regular appeal, particularly in rent matters where special forums are provided under the relevant law and the parties have already availed the same. Once the tenant has exhausted the remedy of appeal and the Appellate Court has concurred with the findings of the Rent Controller, interference by this Court would be warranted only in rare and exceptional circumstances. The petitioner has failed to bring his case within any such exception. On the contrary, the record indicates that the petition has been filed mainly to prolong the matter and retain possession despite concurrent findings against him.

15. For the foregoing reasons, I am of the considered view that the petitioner has failed to make out any case for interference in exercise of constitutional jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. The impugned Judgment dated 11.09.2023 passed by the learned Rent Controller-VIII, Hyderabad, as well as the impugned Judgment dated 26.03.2024 passed by the learned Additional District Judge-VI, Hyderabad, do not suffer from any

illegality, perversity, misreading or non-reading of evidence, or jurisdictional defect warranting interference by this Court.

16. Consequently, the instant Constitutional Petition, being devoid of merit, is **dismissed** along with all pending applications, if any. The petitioner is directed to hand over vacant and peaceful possession of the demised premises to the respondent strictly in accordance with law. No order as to costs.

JUDGE

A.C