

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
*Constitutional Petition No. S-43 of 2026*  
*[Ghaffar Ahmed @ Javed Ghaffar vs. Province of Sindh and others]*

**Before:-**  
**Mr. Justice Ali Haider 'Ada'.**

Petitioner : Ghaffar Ahmed @ Javed  
Ghaffar, *through* Mr. Shafqat  
Raheem Rajput, Advocate.

Respondents : Province of Sindh and others,  
*through*, Mr. Agha Athar  
Hussain, Assistant Advocate  
General Sindh.

Respondent No.2 : Mst. Anum Rehan, *through*  
Mr. Muhammad Aslam  
Roshan, Advocate.

Date of Hearing : 30.03.2026  
Date of Short Order : 30.03.2026  
Date of reasoning : 06.04.2026.

**ORDER**

**Ali Haider 'Ada' J.** - Respondent No. 2, being the owner, filed Rent Application No. 24 of 2020 against the petitioner, in his capacity as tenant, seeking eviction from the property bearing No. D-2813, measuring 40.08 square yards, situated at Sarafa Bazar, Sukkur (hereinafter referred to as the "demised shop"), on the ground of bona fide personal need of her husband. It was asserted that respondent No. 2 owns a 50% share in the said demised premises.

2. After the conclusion of the trial, the learned Rent Controller, Sukkur, allowed the application, directing eviction of the petitioner and handing over vacant possession of the demised shop to respondent No. 2.

3. The petitioner assailed the said judgment before the Appellate Court in Rent Appeal; however, the appeal was dismissed, and the judgment of the learned Rent Controller was maintained. Thereafter,

the petitioner approached this Court and subsequently the Honourable Supreme Court of Pakistan, but no interference was made with the concurrent findings of the Courts below.

4. Subsequently, respondent No. 2 initiated execution proceedings for the enforcement of the ejectment order. The executing Court allowed the execution application and issued a writ of possession, which was again challenged by the petitioner.

5. During the execution proceedings, a co-owner of the demised shop, namely Hassan Ghaffar, surfaced and filed an application under Section 12(2), C.P.C. before the learned Rent Controller, seeking recall of the ejectment order; however, the same was dismissed by this Court, with costs of Rs.25,000/- imposed.

6. Thereafter, respondent No. 2 filed an application for amendment of pleadings, while the petitioner also filed applications under Section 47, C.P.C., and Order XXI Rule 26, C.P.C.; before the executing Court, both applications were dismissed. The petitioner preferred an appeal, which was allowed, and the matter was remanded with directions to decide the objections raised by the petitioner.

7. Consequently, on 17.02.2025, the executing Court kept the execution proceedings in abeyance, directing the parties to seek partition and demarcation of the demised shop through appropriate civil proceedings. The said order was challenged by respondent No. 2 before the Appellate Court, which, vide order dated 29.01.2026, set aside the order of the executing Court and directed that the ejectment order be executed forthwith. The petitioner has now assailed the said order dated 29.01.2026.

8. Learned counsel for the petitioner contended that the learned Appellate Court erred in allowing execution without prior demarcation of the property, as the demised premises require proper identification and partition. It is argued that, in the absence

of demarcation, possession cannot be handed over to respondent No. 2. It is further contended that the learned Appellate Court failed to comply with the requirements of Order XLI Rule 31, C.P.C. In support of his submissions, learned counsel has relied upon the cases reported as 2013 CLC 228, 2012 YLR 218, 1992 CLC 1022, 2014 YLR 602, and 1989 CLC 302.

9. Conversely, learned counsel for respondent No. 2 submitted that throughout the earlier round of litigation, including the main proceedings before the Rent Controller and the Appellate Court, no such plea regarding demarcation was ever raised by the petitioner. It is further contended that respondent No. 2, being a co-owner, had inducted the petitioner as a tenant to the extent of her share and is, therefore, fully competent to seek eviction from the portion in possession of the petitioner. The relationship of landlord and tenant between the parties is admitted, and there is no dispute in this regard. It is argued that the plea of demarcation has been raised belatedly and is misconceived. It is also pointed out that the co-owner who attempted to challenge the proceedings has already been non-suited with costs. Learned counsel thus supported the impugned order.

10. The learned Assistant Advocate General has submitted that demarcation of the property would be necessary for the proper resolution of the matter.

11. Heard the learned counsel for the parties and perused the material available on record.

12. Upon careful examination of the entire proceedings, it has emerged on record that, up to the level of the Honourable Supreme Court of Pakistan, the petitioner never raised any objection to the effect that possession could not be handed over to the respondent/landlord on the ground that the demised premises also comprised the share of another co-owner. Such a plea has been

introduced at a belated stage, only after issuance of the writ of possession.

13. The order passed by the learned Rent Controller, whereby the execution proceedings were kept *sine die* with directions to seek partition, appears to be contrary to the factual and legal position of the case. The petitioner, being a tenant, is under a legal obligation to hand over vacant possession of the demised premises to the landlord. Once the relationship of landlord and tenant, as well as the ownership of respondent No. 2 to the extent of her share, stands admitted, the petitioner cannot be permitted to raise objections regarding title, demarcation, or boundary disputes.

14. It is a settled principle of law that a tenant, after admitting the tenancy and the landlord's ownership, is estopped from challenging the title or raising ancillary disputes in order to resist execution of a lawful ejectment order. The petitioner is bound to deliver possession of the premises in his occupation as a tenant and cannot prolong the matter by introducing extraneous pleas at the stage of execution.

15. In these circumstances, the learned Appellate Court has rightly set aside the impugned order of the executing Court dated 17.02.2025, passed in Rent Execution Application No. 07 of 2022, and has correctly directed execution of the ejectment order. As the appellate Court has already rendered a detailed discussion on all the relevant issues, there is no justification for this Court to re-examine or interfere with the findings.

16. It is a settled principle of law that a party cannot be permitted to raise entirely new grounds at a belated stage, particularly when such grounds were not agitated during earlier rounds of litigation. This principle is rooted in ensuring procedural fairness, preventing prejudice to the opposite party, and preserving the sanctity and effectiveness of the judicial process. In this regard, reliance is placed

upon the case of *Pakcom Limited v. Federation of Pakistan* (PLD 2011 SC 44), wherein it was held as under:

*“It is well settled by now that ordinarily a petitioner cannot be allowed, while invoking the High Court’s constitutional jurisdiction, to raise a completely new point for the first time before it.”*

This principle has been consistently reiterated in a catena of judgments, including *Nasir Ahmad Shaikh v. Nahid A. Shaikh* (1986 SCMR 1621), *Akhtar Iqbal Puri v. Settlement Commissioner, Lahore* (PLD 1977 Lah. 249), *Abdul Sattar v. Additional District Judge, Rawalpindi* (1984 SCMR 925), *Roshti Khan and others v. Shahzada Khusraul Mulk and others* (1992 SCMR 1317), *Ghulam Muhammad v. Abdul Qadir Khan* (PLD 1983 SC 68), and *Irtiqa Rashid Hashmi v. WAPDA* (1980 SCMR 72). The underlying rationale of this principle is that a litigant, having consciously participated in proceedings before the competent forums without raising a particular objection, cannot subsequently be permitted to circumvent the established procedure and expand the scope of constitutional jurisdiction by introducing fresh grounds at a belated stage. Further reliance is placed upon the case of *Syed Shabbir Hussain Shah and others v. Mirza Maqbool Ahmad (through legal heirs) and others* (1998 SCMR 679), wherein it was held that where the Rent Controller, based on a subsequently raised plea, deviated from the settled course and directed restoration of possession, the High Court rightly set aside such order and directed issuance of writ of possession. The said order of the High Court was upheld by the Honourable Supreme Court.

17. A Latin maxim also summarizes this principle: *“Nova causa non potest introduci”*, which means: *“A new cause cannot be introduced.”*

18. Keeping in view the above-mentioned facts and circumstances, there is no justification to interfere with the order dated 29.01.2026 passed by the Additional District Judge-I, Sukkur,

in Rent Execution Appeal No. 02 of 2025. Consequently, the instant constitutional petition is hereby dismissed. These are the detailed reasons for the short order dated 30.03.2026.

*J U D G E*