

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Muhammad Ali Mazhar
Justice Irfan Saadat Khan
Justice Aqeel Ahmed Abbasi

Civil Petition No.15-K of 2024

Against the judgment dated 05.12.2023 of the
High Court of Sindh, Karachi passed in CP S-
1114/2022

Mst. Rasheeda Begum through L.Rs.

...Petitioner (s)

Versus

The Province of Sindh through Secretary ...Respondent(s)
Education & Literacy Department and others

For the Petitioner (s) : Mr. Muhammad Ramzan Tabassum, ASC

For the Respondent(s) : Mr. Faizan Hussain Memon, AAG
Sindh (V.L. Karachi)

Date of Hearing : 23.06.2026

Judgment

Muhammad Ali Mazhar, J.- This Civil Petition for leave to appeal is directed against the judgment dated 05.12.2023 passed by the High Court of Sindh, Karachi, in C.P. No. S-1114 of 2022, whereby the concurrent findings recorded by the Rent Controller and the First Appellate Court in FRA were set aside.

2. According to the narrative, the petitioner purchased Plot No. 4/3, Survey No. 98/101, measuring 1,000 square yards from Mst. Bushra Rahat vide two separate sale deeds; one ad-measuring 210 square yards and another 790 square yards (**herein after referred to as Property**). The Sale Deeds of both pieces of land were duly registered on 28.03.2011.

3. The learned counsel for the petitioner articulated that even before purchasing the property through conveyance deeds, the property was already under tenancy with the Government of Sindh, which had been paying rent to the previous owner, i.e., Mst. Bushra Rahat, at the rate of Rs. 50,000/- per month under the last tenancy agreement dated 01.12.2007. It was further addressed that after purchasing the property, the petitioner tendered a notice under Section 18 of the Sindh Rented Premises Ordinance, 1979 (**"SRPO"**), to intimate the change of ownership. In response to the notice, the Government of Sindh called upon the petitioner to submit the title documents for further proceedings. According to the checkered history of the case, a rent case on the grounds of default and personal need was filed by the petitioner in 2015. The ejectment application was allowed; however, on filing First Rent Appeal (**FRA**) by the Government of Sindh, the ejectment application was dismissed. Being aggrieved, the petitioner filed a writ petition before the High Court of Sindh, which was allowed and while setting aside the appellate judgment, the learned High Court remanded the matter to the Appellate Court to decide the appeal on merits. After hearing the parties, the Appellate Court again remanded the matter to the Rent Controller. It was further avowed that in the second round of litigation, the ejectment petition was allowed after recording evidence. Again, the Government of Sindh filed FRA, which was dismissed, and thereafter they approached the High Court in writ jurisdiction. The writ petition was allowed on the premise that in the ejectment application, the Government was not made party; therefore, the landlord was allowed to file a fresh ejectment application. In the third round of litigation, the Government took the plea that the Rent Controller lacked jurisdiction under Section 3 of the SRPO on the ground that the property had been requisitioned by the Government. The said application was dismissed by the Rent Controller, and again the Government of Sindh filed a First Rent Appeal. During the pendency of the FRA, the Rent Controller passed a tentative rent order under Section 16(1) of the SRPO for the deposit of arrears of rent. Due to the failure to deposit the arrears of rent, the defence of the tenant/Government of Sindh was struck off under Section 16 (2) of the SRPO. The consolidated Order of Rent Controller was challenged

by the Province of Sindh by dint of FRA No.91 and 97 of 2022 but both appeals were dismissed. Being aggrieved by the appellate judgments rendered in FRA Nos. 91 of 2021 and 97 of 2022, the Province of Sindh again challenged both the judgment by means of Constitution Petition No. S-1114 of 2022, which was allowed; the concurrent findings recorded by the Courts below were set aside and the petitioner was called upon to file a civil suit for the resolution of the title dispute.

4. The learned counsel for the petitioner also invited our attention to paragraph No. 11 of the impugned judgment and argued that in fact the learned High Court took into consideration only one sale deed pertaining to a portion of the plot measuring 210 square yards, while the second sale deed relating to 790 square yards was totally ignored, despite being available on the record. He further argued that certain points were also taken into consideration, namely that agricultural land (Form-VII) was converted into a plot and that the land was listed in Village Form-II. It was further mentioned that the declaration confirming the oral gift executed by Muhammad Khalil-ur-Rehman Bajwa was in favour of Mst. Bushara Rahat for Survey No. 98/101, ad-measuring 210 square yards, as per the entry in Village Form-VII, whereas the sale deed in the name of the said lady was executed in respect of Plot No. 4/3, Survey No. 98/101, ad-measuring 790 square yards. Apparently, the main cause of concern before the High Court was that there was no document in relation to the land ad-measuring 790 square yards. According to him, the dispute with regard to the title was never raised in earlier proceedings by the Government of Sindh but it was raised at much belated stage to avoid and frustrate the ejectment order concurrently maintained and further to avoid the accumulated rental amount to the petitioner.

5. The learned AAG argued that on submission of the documents the Government of Sindh raised objection with regard to the title of the petitioner as according to him, the auction in favour of the original auction purchaser was canceled in 1974. He further argued that although in the earlier round of litigation, the Government had admitted the ownership of the previous landlord, however when the

petitioner served notice under Section 18 of the SRPO and supplied title documents, it came into knowledge that the land was wrongly transferred on the basis of auction which was cancelled for the reason that the auction purchaser failed to deposit the amount within the stipulated period of time. He further argued that earlier the petitioner filed a suit for declaration, which was subsequently withdrawn. It was further averred that the sale deeds were not placed before the High Court for proper determination, however this assertion of learned AAG was vigorously refuted by the learned counsel for petitioner, who again pointed out that both sale deeds were exhibited before the Rent Controller as Ex.A/3 and Ex.A/4 and Record and Proceedings (**R&P**) was called by the learned High Court, but perhaps this escaped the attention.

6. Heard the arguments. By and large, it is an all-purpose norm that the High Court in its writ jurisdiction may not meddle with or upset the concurrent findings recorded by the Courts below unless on the face of it the findings recorded below seem to be structured on gross misreading or non-reading of evidence; the findings at first glance are found illogical, based on guesses and mere speculations which defy the good judgment; proceeded without jurisdiction or surpassed the lawful authority or failed to exercise the vested jurisdiction; the Courts below employed incorrect provision of law; the cumulative effect of slip-ups or oversights give rise to severe prejudice or violated express provisions of a statute or fundamental constitutional rights.

7. In fact, the High Court while exercising jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, though has the power of judicial review in order to reevaluate and run-through the soundness of the judgments rendered by the Courts below but this jurisdiction neither empowers to revisit the judgment or orders of lower fora as if it is hearing a second appeal nor it can substitute own opinion merely because another view of the evidence was possible nor get to the bottom of complicated factual disputes out-of-band management pathway so as to act as an appellate court in rent disputes.

8. The essential characteristics flanked by the coordination of judicial powers is that writ jurisdiction keeps a tight rein on re-examining the lawfulness and meticulousness of the decision-making process whether the lower forum acted within its lawful authority and jurisdiction but cannot re-weigh evidence or interpret the evidence differently or overturn the factual findings unless they are completely perverse. Whereas appellate jurisdiction encompasses a full-fledged hearing of the case on both facts and law including the merits of the decision whether lower court reached to the correct conclusion for which it can also re-evaluate the oral and documentary evidence. In the end, the appellate court may maintain, modify, reverse, or substitute the original judgment and order with its own reasoning and decision.

9. For all intents and purposes, it is clear that rent laws are categorized as special laws which are equipoised with self-contained, self-reliant and self-regulated substantive and procedural provisions. The rent laws are aimed to make sure fast-track outcomes of tenancy disputes between the landlords and tenants. The intention of the legislature is to narrow down the controversy with speedy culmination of disputes rather than dragging it for an unlimited period of time like civil suits which frustrates the very intention of legislating special law for speedy resolution of tenancy disputes according to applicable Rent Laws.

10. In the present case, we feel that while upsetting the concurrent findings recorded by the Rent Controller and Appellate Court, the sale deeds escaped the attention of the learned High Court which formed part of the R&P. Furthermore, the issue relating to the cancellation of the auction if any was not properly adverted to which could only be decided after providing ample opportunity of hearing to both parties and after placing the relevant documents on record, if at all, the learned High Court wants to embark upon the question of title in the rent proceedings which is otherwise not possible in writ jurisdiction where the factual controversy or disputed question of facts cannot be decided. The respondent in the earlier round of

litigations never raised any such plea that the auction was cancelled; on the contrary, not only did they recognize the relationship of the tenant with the original owner but also paid rent without any demur. However, out of the blue, the tenancy issue was transformed into a dispute of title after the change of ownership, that too at a highly belated stage and despite that the matter had reached an advanced stage of proceedings.

11. There is also need of proper deliberation as to why only petitioner should be forced to approach the civil court for seeking declaration of title which was never disputed by the allotting/competent authority and why not, the tenant/government of Sindh was in deep slumber if at all they have any vested right or title which apparently seems to be in air. Merely alleging orally that auction was cancelled in 1974 does not suffice to give any cause of action to defy the relationship of landlord and tenant in ejectment proceedings which is not the forum to decide the title of the property. So far as the niceties of Section 3 of SRPO is concerned, it is not activated or set in motion automatically but it explicates in clear terms that notwithstanding anything contained in any law for the time being force, all premises other than those owned or requisitioned under any law, by or on behalf of the Federal Government or Provincial Government, situated within an urban area, shall be subject to the provisions of this Ordinance. The guiding force of this provision is provided under sub-section (2) which provides that the Government may, by notification, exclude any class of premises, or all premises in any area from operation of all or any of the provisions of this Ordinance.

12. In our considered view, if any such notification was ever issued in the past, it should have been produced before the Rent Controller before acquiescing to the relationship of landlord and tenant. It is somewhat apposite to quote a Latin maxim "*Allegans contraria non est audiendus*" which resonances a principle of good faith that a person should not be allowed to testify hot and cold at different times about the same event and not to give contradictory statements but in the present circumstances the rationality of another Latin maxim

“Quod approbo non reprobo” is also quite germane which has a direct nexus to the doctrine of approbate and reprobate meaning thereby “which I approve, I cannot disapprove”.

13. In view of the foregoing, certain crucial points falling within the jurisdictional ambit of the rent laws (SRPO), particularly those relating to the setting aside of concurrent findings recorded by the two courts below in writ jurisdiction under the special law, require reconsideration in order to arrive at a proper conclusion. Accordingly, this Civil Petition is converted into an appeal and allowed. Consequently, the impugned judgment of the High Court is set aside, and the matter is remanded for fresh adjudication to the High Court with independent application of mind, preferably within a period of six months from the date of receipt of this judgment.

Judge

Judge

Judge

Islamabad
23.06.2026
Approved for reporting