SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Mr. Justice Yahya Afridi, CJ
Mr. Justice Muhammad Shafi Siddiqui

Civil Petitions No.397-K and 399-K to 402-K of 2026
[Against judgments dated 19.06.2026 of the High Court of Sindh, Karachi passed in Constitution Petitions No.S-282, S-283, S-299, S-300 and S-301 of 2025]

M/s Universal Express (Pvt.) Limited.
[in CP.397-K/26]

M/s Al-Kiswa (Pvt.) Limited.
[in CP.399-K/26]

M/s Topline Travels (Pvt.) Limited.
[in CP.400-K/26]

M/s Fazal-e-Rabbi (Pvt.) Limited.
[in CP.401-K/26]

M/s Executive Aviation (Pvt.) Limited.
[in CP.402-K/26] ... *Petitioners*

VERSUS

Karachi Properties Investment Company (Pvt.) Limited and others. ... *Respondents*
[in all cases]

For the Petitioners: Mr. Badar Alam, ASC.
[In all cases] Ms. Abida Parveen Channar, AOR.

For the Respondents: Not represented.
[In all cases]

Date of Hearing: 03.09.2026.

JUDGMENT

Muhammad Shafi Siddiqui, J. Since all the five petitions arise out of ejectment proceedings involving common questions of law and substantially similar facts, they are being disposed of through this single judgment.

2. The respondent No.1/landlord sought eviction of its five tenants principally on the grounds of rent default, maintenance-charge default and impairment of the material value and utility of the building under the Sindh Rented Premises Ordinance, 1979 ('**the Ordinance**'). The Rent Controller

allowed all five ejectment applications on 08.10.2024; the Appellate Court on 24.02.2025 maintained the findings of rent default and impairment but reversed the maintenance-default finding. In the rent case of Universal Express, the Appellate Court additionally reversed the subletting, finding on which the High Court subsequently restored. The High Court, by judgments dated 19.06.2026, affirmed the findings of rent default and material impairment in all five cases, dismissed all five constitutional petitions and directed the tenants to vacate the respective premises within 45 days subject to deposit of rent for that period.

3. Learned counsel for the petitioners has principally contended that the ejectment applications, insofar as they were founded upon the alleged non-payment or short payment of rent for February and March 2018, were premature because of the absence of an agreed date for payment; the statutory period prescribed by section 15(2)(ii) of the Ordinance had not expired when the ejectment applications were instituted. It has further been contended that the rent claimed by the respondent was enhanced without consent of the petitioners and that the courts below failed to properly appreciate the receipts, money-order payments and the evidence of the landlord's witness regarding payment of rent.

4. It has also been argued by the learned counsel for the petitioners that the Rent Controller and the High Court travelled beyond the pleadings by taking into consideration the alleged failure to pay rent during the pendency of the ejectment proceedings, particularly the rent for May and June 2020. According to the petitioners, no such subsequent default was pleaded in the ejectment applications and the courts below could not have treated it as an independent ground of ejectment, particularly when no tentative rent order under section 16(1) of the Ordinance had been passed. The petitioners have further challenged the findings regarding impairment on the ground that no architect, engineer or other expert was examined to establish that the alterations had impaired the material value or utility of the premises.

5. We have heard the learned counsel for the petitioners and perused the material available on record. The following questions arise for determination:

(i) Whether the petitioners had committed default in payment of rent within the meaning of sections 10 and 15(2)(ii) of the Ordinance?

(ii) Whether the alleged rent falling due during the pendency of the ejectment proceedings could be taken into consideration by the courts below and/or any deposit made in MRCs in violation of section 10 of the Ordinance could also be taken into account on the basis of material available on record?

(iii) Whether the acts attributed to the petitioners were such as were likely to impair the material value or utility of the demised premises within the meaning of section 15(2)(iv) of the Ordinance?

(iv) Whether the concurrent findings of the courts below call for interference by this Court?

6. We first consider the question of default in payment of rent. Section 10(1) of the Ordinance postulates one situation, i.e., the time within which rent is to be paid where no date has been fixed by mutual agreement between the landlord and tenant, i.e., not later than tenth day of the month next following the month for which it is due. The facts concurrently show that it was payable in advance and is not a case where mutual understanding to pay advance rent is not surfaced.

7. Section 15(2)(ii) of the Ordinance, in turn, provides for an order of ejectment where the tenant has failed to pay or tender the rent due within the periods prescribed therein. It deals with both situations, i.e., rent agreed to be paid in advance and a situation when no such agreement is apparent. Rent Controller in the respective MRCs simply directed tenants to deposit rent in respective MRCs and the tenant was under an obligation to deposit rent according to the mode of payment that they are obligated to. Failure to pay or validly tender the rent within the time prescribed by law/Ordinance constitute non-compliance with the statutory obligation to pay rent. The question, therefore, is not merely whether some payment was eventually made, but whether the rent legally payable was paid or validly tendered within the period prescribed by law.

8. There are two different events framed under the Ordinance: In situation one, which is seen under section 10(1), the framers are of the opinion that once the tenant is in the Court to deposit the refused rent then the obligation upon the tenant was to deposit it before the 10th of the following month of its due date provided that it was not payable in advance. This period, in the absence of an agreement to pay rent in advance, is different. In case of advance, it is payable within 15 days of it becoming due. Section 15(2)(ii) provides a period of sixty days when it becomes due in the absence of agreement. Section 10 has intentionally used the word "paid" before the 10th of the following month of its due date, whereas, section 15 provides a timeframe of sixty days from when it becomes due in absence of rent payable in advance. Both situations are totally different and the petitioners cannot take advantage of the timeframe provided either under section 10 or section 15 for not paying rent in advance. On the basis of evidence, it was concurrently adjudged as payable in advance. Reference in this regard may be made to the cases of *Zarina Khawaja*[1], *Shezan Limited*[2] and *Uzma Construction Co.* [3]. Tenants attempted to deposit the rent in Court, which was payable in advance, which was allegedly refused by the landlord, and it does not exceed the timeframe by 60 days after its due date within which he intended to deposit rent in Court in MRCs.

9. The petitioners have relied upon the absence of any fixed date for payment of rent and have contended that the rent for February and March 2018 could still have been paid within the statutory period when the ejectment applications were filed. The said contention was raised before the Appellate Court and the High Court which contention were considered in the light of the evidence available on record. The courts below, after examining the rent schedule, receipts and the evidence of the parties, nevertheless found that the petitioners had committed default/short payment or delay in payment of rent and the rent was payable in advance to which no exception can be taken.

10. There is also nothing on record to suggest that the petitioners at the relevant time disputed the enhanced rent. Courts below discussed that the enhanced rent was paid for January 2018 and acknowledged by the parties,

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[1] Zarina Khawaja v. Mahboob Shah (PLD 1988 Supreme Court 190).
[2] Shezan Limited v. Abdul Ghaffar (1992 SCMR 2400).
[3] Uzma Construction Co. v. Navid H. Malik (2015 SCMR 642).

whereas, for February and March 2018 short payments were made. No contemporaneous record has been produced showing that the tenant objected to the enhanced rent, and/or informed the landlord that it disputed the revised amount otherwise agreed in the agreements. Needless to mention that such terms not opposed by the Ordinance would continue to operate whether it be of advance rent and/or enhanced rent (not exceeding 10%). Tenant tendered the rent of previous month as the amount it considered legally payable. The short payments for February and March 2018 nevertheless remained unexplained and unpaid. In these circumstances, we find no sufficient basis to displace the concurrent factual finding of the courts below regarding the rent payable merely on the plea that the enhancement was unilateral.

11. The question, therefore, is whether the petitioners established payment of the rent legally due. The landlord's authorised representative gave evidence regarding the outstanding and short-paid rent. As the principle enunciated by this Court in the case of *Allah Din*,[4] once the landlord discharges the initial burden by stating on oath that rent has not been received, the onus shifts to the tenant to affirmatively establish payment or valid tender. The courts below examined the documents and oral evidence concerning the rate at which rent was payable and reached concurrent conclusions.

12. In the present cases, the courts below considered the evidence concerning the payments claimed by the petitioners and were not satisfied that the petitioners had established timely payment so as to displace the landlord's case of default. Such appreciation of evidence, having been concurrently undertaken by the three forums below, cannot be interfered with. The petitioners have, however, placed considerable reliance upon the rent which became due during the pendency of the ejectment proceedings. It is correct that the institution of an ejectment application does not suspend the tenant's continuing obligation to pay or tender rent. The tenancy continues until lawfully terminated and rent continues to fall due according to the terms of the tenancy (either reduced in writing or if could be spelt out from evidence) which in the instant cases read out concurrently as payable in advance. Thus, the mere pendency of ejectment proceedings or the

[4]Allah Din v. Habib (PLD 1982 Supreme Court 465)

subsequent filing of an application for deposit under section 10(3), does not by itself postpone the date on which rent becomes payable under the scheme of section 10 of the Ordinance.

13. The law does not require a Rent Controller to shut his eyes to events occurring during the pendency of an ejectment proceeding as per record available. In the case of *Mst. Amina Begum*[5], this Court recognized that, in appropriate cases, subsequent events may be taken into consideration to avoid multiplicity of proceedings, shorten litigation and mould the relief according to the altered circumstances. The same principle was reiterated in the *Raj Muhammad case.*[6] Likewise, in *Muhammad Amin Lasania,*[7] the subsequent conduct of the tenant in relation to payment of rent was considered while determining the question of default. These authorities, however, do not dispense with the requirement of establishing the statutory ground of ejectment. The rent subsequently falls due during the pendency of the proceedings undertaken on account of default of earlier period, and remains unpaid beyond the period prescribed by the Ordinance, such non-payment constitutes a further statutory default and, if established from the record, may furnish an independent additional ground for ejectment in the pending proceedings.

14. It would therefore be incorrect to hold, as an absolute proposition, that un-pleaded default in payment of rent can never be taken into consideration. It must, however, be made part of proceeding (as is required under the law), to avail such benefit. Consequently, even where the default pleaded in the ejectment proceedings is not established, a subsequent default, if duly established and if it satisfies the unfulfilled obligations of tenant under the Ordinance, it may furnish an independent ground for ejectment in such proceedings. In the present case, however, the original default pleaded by the respondents was itself established; the subsequent non-payment is therefore not being made the sole basis of ejectment, but is relevant to demonstrate the petitioners' recorded failure to discharge their statutory obligation to pay rent.

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[5]Mst. Amina Begum and others v. Mehar Ghulam Dastgir (PLD 1978 Supreme Court 220)
[6]Raj Muhammad v. Haji Muhammad Zareen (1980 SCMR 339*)*
[7]Muhammad Amin Lasania v. Messrs Ilyas Marine and Associates (PLD 2015 Supreme Court 33)

15. We now turn to the independent ground of impairment. Section 15(2)(iv) of the Ordinance provides for ejectment where the tenant has committed such acts as are likely to impair the material value or utility of the premises.

16. The expression "likely to impair the material value or utility" is of significance. In the case of *Organon Pakistan*,[8] this Court considered the scope of section 15(2)(iv) of the Ordinance and held that the impairment must be material and may relate either to the value or the utility of the premises. It was further held that actual impairment is not indispensable where the act is likely to cause such impairment. The Court also made it clear that the law does not confine the provision to structural alterations and that examination of an architect or other expert is not an invariable requirement; the evidence of the landlord, supported by the record, may in an appropriate case be sufficient.

17. The present cases have to be examined in the light of the above principle. The findings recorded by the courts below are not based upon the mere existence of ordinary business installations. The evidence considered by them included the installation of industrial generators, drilling of holes in the structure for air-conditioning arrangements, erection of staircases without established written permission and, in the relevant cases, establishment of valet parking inside and other alterations affecting the building and its use.

18. In Universal Express rent case, the High Court additionally considered the construction/extension, valet parking and the placement of generators in the open space, along with drilling for air-conditioning arrangements and erection of a staircase. In the other connected matters, the High Court similarly considered the installation of industrial generators, drilling of holes and erection of staircases without permission. The particular factual circumstances varied from case to case, but the common feature was that the courts found the acts to have gone beyond ordinary use of the demised premises and to have affected the building or its utility. The petitioners have

[8]Organon Pakistan (Pvt.) Ltd. v. Rafat Ali Khan (1999 SCMR 54)

not been able to demonstrate that these findings are based upon misreading or non-reading of any material document.

19. The argument that the absence of an architect or engineer necessarily defeats the claim of impairment cannot be accepted. The *Organon* case expressly negate such an absolute requirement. The conclusive question remains whether, on the evidence available in the particular case, the act of the tenant had actually impaired or was likely to materially impair the value or utility of the premises.

20. We are conscious that in the case of *Intezar Ahmed Khan*,[9] this Court declined to presume material impairment merely from the removal of a partition wall where there was no evidence demonstrating that the act was likely to impair the value or utility of the premises. The principle emerging from that case is that material impairment must be established through evidence and cannot be presumed from every alteration. The present cases, however, do not rest upon such a bare presumption. The courts below considered the nature of the alterations, the manner in which the installations were made, the absence of established permission and their cumulative effect upon the premises.

21. We therefore find that the findings under section 15(2)(iv) of the Ordinance cannot be characterized as findings based merely upon conjecture. The courts below had material before them from which the likelihood of material impairment could reasonably be inferred. The requirement of the statute was consequently satisfied.

22. The petitioners' reliance upon the cases of *Habib Carpets,*[10] and *Karachi Properties Investment Company*[11] are the cases which are distinguishable on their facts. The nature and extent of the installations and alterations in the present cases, the manner in which they were carried out, and the evidence regarding their effect upon the building and its utility materially differ from the factual circumstances considered in those cases.

23. It is also significant that the finding of impairment was maintained by the Rent Controller, the Appellate Court and the High Court. The petitioners

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[9]Intezar Ahmed Khan and others v. Mst. Khatoon Hadi and another (1995 SCMR 194)
[10]Habib Carpets (Pvt.) Ltd. v. Karachi Properties Investment Company (Pvt.) Ltd., (2022 MLD 1754)
[11]Karachi Properties Investment Company (Pvt.) Ltd. v. Habib Carpets (Pvt.) Limited (2024 SCMR 1354)

have not identified any material piece of evidence which was ignored by all three forums or any inadmissible material upon which the finding alone rests. We therefore see no justification to disturb the concurrent factual determination.

24. The question remains whether, notwithstanding the above findings, this Court should interfere with the concurrent conclusions of the courts below. It is settled that concurrent findings are not immune from interference where they are shown to be perverse, based upon misreading or non-reading of material evidence, or founded upon an erroneous proposition of law, but mere possibility of another view does not justify interference.

25. In the present cases, the courts below considered the evidence concerning the rent payable, the alleged short payments, and the manner of tender, the subsequent conduct of the petitioners and the physical alterations and installations in the premises. The Appellate Court independently examined the findings of the Rent Controller and the High Court thereafter considered the matter in constitutional jurisdiction. We have also examined the principal legal objections raised before us and find no error of law warranting interference.

26. For the foregoing reasons, we are of the considered view that the impugned judgments of the High Court maintaining the orders of ejectment do not call for interference. Hence, the petitions are dismissed and leave to appeal is refused.

Chief Justice

Judge

Announced in open Court on 9.10.2026 at Islamabad.

Judge

Approved for Reporting