JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

WRIT PETITION NO. 317 OF 2025

YOUSAF MAHMOOD QURESHI

VS

ADDITIONAL DISTRICT JUDGE-XI, WEST, ISLAMABAD ETC.

Petitioner by : Khawaja Shahid Rasool Siddiqui Advocate.

Respondents by : Ms. Saira Afzal Cheema, Advocate along with the Respondent No. 3.

Date of hearing : 17.03.2025

MUHAMMAD AZAM KHAN, J.

1. Through the instant Petition, the Petitioner [Yousaf Mahmood Qureshi] has assailed the Judgment and Decree dated 15.01.2025 passed by the learned Additional District Judge-XI, West, Islamabad and Judgment and Decree dated 30.09.2024 passed by learned Senior Civil Judge-II/Rent Controller, West-Islamabad **(**collectively referred to as the **"Impugned Judgments and Decrees")**.

2. The brief facts of the case in hand are that the Petitioner owes and lives in the premises i.e. House No. 18, Street No. 60, F-11/4 Islamabad **("Subject House")**, since 7.8.1997. The Subject House, measuring two Kanals, consists of three portions: ground floor, first floor, and basement, and has never been rented out. The Petitioner's son i.e. Respondent No. 3, a U.S. citizen, came to Pakistan in June 2022 for training, initially for 90 days. The Petitioner allowed him to stay in the Subject House for that period, after which Respondent No. 3 moved into the fully renovated upper portion of the Subject House. In September 2022, the Petitioner requested his son to vacate the premises, but Respondent No. 3 refused and suggested extending his stay for one year. They orally agreed on a rental arrangement for 11 months, starting from 15.9.2022, at a monthly rent of Rs. 500,000/-, with the tenant responsible for utility bills. The Respondent No. 3 only paid Rs.100,000/- per month and has a pending balance of Rs.7,542,600/- despite occupying the Subject House for over a year. The rental agreement expired in August 2023, but Respondent No. 3 still resides in the Subject House. The Respondent No. 3 has exhibited an abusive attitude, neglected security concerns,

and allowed unauthorized people to enter the Subject House. He has also made structural changes without approval, violating the terms of the lease and CDA Regulations. The Petitioner, whose two sons need space, filed an ejectment petition on 16.2.2024, due to these issues. The Respondent No. 3 denied the oral agreement, prompting the Petitioner to seek evidence in rebuttal, however, such application was dismissed vide Order dated 31.05.2024. After the passing of Order dated 31.05.2024 against the Petitioner, the Petitioner filed a writ petition, which was disposed of as being infructuous on 10.10.2024 as Respondent No. 2 passed the Impugned Judgment and Decree dated 30.09.2024 against the Petitioner. Being aggrieved of the said Impugned Judgment and Decree, the Petitioner filed an Appeal under Section 21 of the Islamabad Rent Restriction Ordinance, 2001 which was dismissed vide the Impugned Judgment and Decree dated 15.01.2025. The Petitioner being aggrieved of the Impugned Judgments and Decrees filed the instant Writ Petition.

3. The learned counsel for the Petitioner argued that the Impugned Judgment and Decree dated 15.1.2025 is unsustainable due to factual and legal errors; that the Rent Controller (Respondent No. 2) wrongly dismissed the Petitioner's application for additional evidence in rebuttal, depriving the Petitioner of a fair trial; that the Impugned Judgments and Decrees are result of misreading and ignoring evidence; that according to the Qanun-e-Shahadat Order, 1984, rebuttal evidence is allowed after cross-examination, which the Petitioner was denied; that Respondent No. 3, who has not paid the full rent since 15.9.2022, is a willful defaulter, and the tenancy relationship is supported by circumstantial evidence, including bank payments; that the Petitioner’s ownership of the Subject House is undisputed, and Respondent No. 3 cannot deny the landlord-tenant relationship; that a tenancy can exist even without a written agreement, and the Petitioner is entitled to the rights of a landlord; that the Petitioner requests the Court to set aside the Impugned Judgments and Decrees, as the same are based on insufficient and misreading of evidence, and order Respondent No. 3 to pay the outstanding rent of Rs. 15,045,600/- and vacate the premises.

4. On the other hand, the learned counsel on behalf of Respondent No.3 argued that the Petitioner’s counsel has failed to point out any illegality in the Impugned Judgments and Decrees and the learned Courts below have rightly dismissed the Suit as well as Appeal of the Petitioner, based on the correct

appreciation of facts and record by applying proper judicial mind. Lastly, the learned counsel prayed for the dismissal of the instant Petition.

5. I have heard the learned counsel for the parties and have also perused the record with their able assistance.

6. The Petitioner is the sole owner of the Subject House, in which he is residing since 7.8.1997. The Subject House consists of three portions (Ground, First floor and basement) and the Petitioner alleges that he provided the upper portion of the Subject House to Respondent No. 3 in June, 2022, who is U.S Citizen when he was on visit to Pakistan to participate in a training program. The Respondent No.3 requested the petitioner that he needs the Subject House for a period of ninety days, for his living during the training period and after completion of training period, he will move back to U.S. The Petitioner requested Respondent No. 3 to vacate the Subject House after ninety days, but he refused by stating that he needed the Subject House for one year more. After that an oral rent agreement was settled for 11 months and Respondent No. 3 started paying Rs.100,000/- rent per month. He paid Rs.1,457,400/- to the Petitioner, after which he stopped paying the rent and accumulated default rent amounts to Rs.7,542,600/- and the Respondent No. 3 still enjoying the possession of the said Subject House. The Petitioner filed Ejectment Petition before the Rent Controller on 16.02.2024, where he failed to establish the relationship of Landlord and Tenant and ultimately the Ejectment Petition was dismissed on 30.09.2024.

7. In order to prove the claim of the Petitioner that Respondent No.3 is in possession of the upper portion of the Subject House, as Tenant, he appeared in the witness box as AW-1 in support of his version, however, no independent witness was produced, in whose presence Petitioner and Respondent No. 3 entered into any oral rent agreement. As per the claim of the Petitioner that Respondent No. 3 paid him rent, in this regard he produced his Bank Statement which is Ex.A4, which reflects the following payments: -

S.No	**Date**	**Amount**
1.	17.09.2022	Rs.1,00,000/-
2.	03.10.2022	Rs.1,00,000/-

3.	07.12.2022	Rs.1,00,000/-
4.	30.12.2022	Rs.1,00,000/-
5.	03.02.2023	Rs.1,00,000/-
6.	06.03.2023	Rs.1,00,000/-
7.	05.04.2023	Rs.1,00,000/-
8.	02.05.2023	Rs.1,00,000/-
9.	05.06.2023	Rs.1,00,000/-
10.	08.07.2023	Rs.1,00,000/-
11.	16.11.2023	Rs.1,00,000/-
12.	22.12.2023	Rs.1,00,000/-
13.	19.01.2024	Rs.1,00,000/-

8. From the stated details of payments it is quite evident that there is no consistency and the payments were not made regularly on monthly basis, which could suggest that the petitioner has received monthly rents from Respondent No.3. Petitioner and Respondent No.3 are father and son and the son may have transferred these amounts in the account of his father, due to natural love and affection. There is no such evidence which could prove that these amounts were transferred as monthly rental amount, moreover, the Petitioner has also failed to produce any independent witness before the learned Rent Controller which could prove that any oral agreement was entered between the father and son. As per the version of the Petitioner in the Ejectment Petition, the Respondent No. 3 has not paid the full rent since September 2022 and he filed the Ejectment Petition on 16.02.2024 i.e. after the lapse of about one year and five months which he has failed to explain.

9. Since the Petitioner failed to establish the relationship of Landlord and Tenant in the Ejectment Petition and Respondent No. 3 does not fall within the definition of Tenant as engrained under section 2(j) of the Islamabad Rent Restriction Ordinance (IRRO), 2001, the Petitioner is not entitled for evicting or

dispossessing Respondent No. 3 from the Subject House under the IRRO, 2001. The burden is always on the Landlord to prove the execution of the lease agreement, specially if its existence is denied by the alleged Tenant. In the present case, the alleged lease agreement was oral, placing an even strict burden on the Petitioner to prove its terms and existence. The Petitioner has failed to discharge this burden and his case is further weakened by the absence of any corroborating evidence or any independent witness.

10. In light of the above discussion, the Impugned Judgments and Decrees dated 30.09.2024 and 15.01.2025 passed by the learned Rent Controller and the learned Additional District Judge, West-Islamabad, respectively are based on correct appreciation of facts and law. The learned counsel for the Petitioner has failed to point out any illegality, or irregularity in the Impugned Judgments and Decrees which needs no interference by this Court. Resultantly, the instant Writ Petition is **dismissed**.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the Open Court on 7th day of April 2025.

JUDGE

Sajid/--