JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 397 of 2025

Irshad Ahmed Zada

Versus

Showket Ali, etc.

Date of Hearing:	**04.02.2025**
Petitioner by:	Petitioner in person.
Respondents by:	Ms. Aroob, Advocate for Respondent No. 1. Nemo for respondents No. 2 & 3.

MUHAMMAD AZAM KHAN, J. Through the instant Constitutional Petition, the Petitioner/Tenant [Irshad Ahmad Zada, Advocate] has challenged the Order and Decree dated 22.10.2024 **("Impugned Order and Decree")** passed by the learned Rent Controller, Islamabad-West **("Rent Controller")** whereby the Eviction Petition filed by the Respondent No.1/Landlord was accepted. The Petitioner/Tenant has further assailed the Judgment and Decree dated 14.01.2025 passed by the learned Additional District Judge-XI Islamabad-West **("Appellate Court")**, whereby the Appeal filed by the Petitioner/Tenant under Section 21 of the Islamabad Rent Restriction Ordinance, 2001 **("IRRO, 2001")** against the Impugned Order and Decree has been dismissed.

2 Brief facts leading to the filing of this Writ Petition are that the Respondent No.1/Landlord filed Eviction Petition against the Petitioner/Tenant on the grounds that the Lease Agreement was executed on 15.02.2023 for a period of 12 months which expired on 14.02.2024 and since expiration of said lease, the Petitioner/Tenant is occupying the tenement illegally and there was also allegation of non-payment of utility/Gas bills. Upon being summoned the Petitioner/Tenant appeared before the Rent Controller and contested

the Eviction Petition with the contentions that the lease agreement was extended for a period of three years but to substantiate this contention, nothing in black and white was placed on record. He raised preliminary objection including the specific contention that the Rent Controller lacked jurisdiction under Section 1(2) of the IRRO, 2001. According to the Petitioner/Tenant, the IRRO, 2001 applies only to urban areas of Islamabad Capital Territory specified by notification in the official gazette. He referred to Notification No. SRO 83(RE)/2 dated 19.07.2002 **("Notification")** which defines the urban areas and premises to which the Ordinance extends. The Petitioner/Tenant claimed that the demised premises do not fall within the area covered under the Notification and is therefore, beyond the jurisdiction of the Rent Controller.

3. The learned Rent Controller did not agree with the contention of Petitioner/Tenant and proceeded to accept the Eviction Petition by holding that after expiration of the Lease Agreement the status of the Petitioner/Tenant in the premises was that of an unauthorized tenant. The Appeal filed by the Petitioner/Tenant also met the same fate, which necessitated the Petitioner/Tenant to invoke the constitutional jurisdiction of this Court.

4. The Petitioner/Tenant appearing in person reiterated his stance taken before the learned lower forums as to the non-applicability of IRRO, 2001 to the area where the leased premises is situated and further submitted that both the learned forums fell into error by not appreciating his contentions and that Impugned Order and Decree as well as the Impugned Judgment and Decree having been passed in violation of the express provisions of law are not only patently illegal but resulted into miscarriage of justice.

5. On the contrary, the objection of the learned counsel for the Respondent No. 1/Landlord is that in a reported case titled as

Muhammad Shahbaz v. District and Sessions Judge (East) Islamabad **(2024 CLC 274)**, the Hon'ble Islamabad High Court directed the Federal Government to issue the necessary Notification to ensure the applicability of the IRRO, 2001 to all areas of ICT. She argued that contention of the tenant regarding lack of jurisdiction was baseless and the IRRO, 2001 is very much applicable in this case.

6. After hearing arguments from both sides and upon a careful perusal of the record, this Court finds that the primary issue raised by the Petitioner/Tenant is the applicability of IRRO, 2001 to the demised premises. In this regard, it is crucial to examine the legal status of the relevant notifications and judicial pronouncements. The IRRO, 2001 by its very design, governs the relationship between landlords and tenants in areas notified by the Federal Government within the ICT. The Notification dated 19.07.2002, referred to by the Petitioner/Tenant delineates certain urban areas of ICT. However, the legal position was clarified by the Judgment in the case of *Muhammad Shahbaz (supra*)**,** wherein this Court had directed the Federal Government to extend IRRO, 2001 to the entire ICT to address ambiguities and ensure uniform application of tenancy laws across all areas of the capital territory. To clinch the issue, the operative paragraphs of the above said Judgement are reproduced hereunder:

> "26. This court is mindful of the fact that the term "urban area" means such area or areas of Islamabad Capital Territory as the Federal Government may, by notification in official gazette specify, as explained in section 2 (k) of the IRRO, 2001, but the provision is silent qua any character, principle, or explanation to understand which areas were called urban area with reference to IRRO, 2001, rather the same was further dependent upon the notification of the Federal Government in the official gazette without any parameters on which Federal Government can select the area, though through the previous two SROs notified by the Federal Government under this provision, those areas were included, which were duly recognized under Capital Development Authority Ordinance, 1960, which is not the mandate of law in IRRO, 2001. This technical defect has never been explained on

any yardstick as has been mentioned as to how and on what parameters Federal Government can choose and select the Area in such disputed position. Hence, the doctrine of Pith and Substance as well as doctrine of Incidental Encroachments and Occupied Field come into play, though in this case, there is no other competitive legislation which effects the IRRO, 2001, directly, but the mode and manner in which Federal Government is exercising its authority by denying the application of IRRO, 2001 in Islamabad Capital Territory areas should have been settled in the light of preamble of IRRO, 2001, however, more than 2/3rd population of Islamabad Capital Territory has been excluded to get benefit of IRRO, 2001. This Court is bound to consider the legislative intent of the parliament by examining the preamble to understand the real spirit and domain as well as occupied field of IRRO, 2001, which only gives a simple and straight meaning to resolve the issues between landlord and tenant without any discrimination of properties recognized by the CDA or not recognized by CDA.

27. So far as the restriction under IRRO, 2001 provided under Section 4, whereby the Diplomatic Enclave has been excluded from the IRRO, 2001, is concerned, it appears that such restriction has been applied to protect the rights of Diplomats and the State owned buildings as matter of policy to avoid unnecessary legal hardships, however, at the same time, the relationship of landlord and tenant in the Diplomatic Enclave between private individuals could not be considered excluded from the legal cover of IRRO, 2001.

28. The citizens of Islamabad Capital Territory are interested to pay their property taxes, charges for other municipal services under ICT Local Government Act, 2015 and it is now up to the Local Government system to enforce those laws to provide the municipal services to each and every resident of Islamabad Capital Territory, as a result whereof, every area whether registered society, society having cancelled NOCs or LOPs or societies declared illegal by CDA or un regulated construction, require municipal services and establishment of the metropolitan city by conversion of rural areas into urban development and needs the application of IRRO, 2001, without any discrimination. There is no legal bar in CDA Ordinance, 1960, Islamabad Capital Territory Local Government Act, 2015, or any other law for the time being in existence to exclude certain areas of Islamabad Capital Territory from the application of IRRO, 2001.

29. The epitome of the above discussion is that instant writ petition is ALLOWED not only to the extent of Ghouri Town, rather to the extent of entire Islamabad Capital Territory notwithstanding registered, approved or unapproved society of CDA or any other Area acquired or non-acquired or even constructed in any part of ICT beyond the Zoning limit, whereby any land or house which has been rented out to a tenant by a landlord is required to be regulated through Rent Controller in terms of IRRO, 2001, without any discrimination, hence, the

> Federal Government has to issue the necessary notification accordingly for application of IRRO, 2001 in the entire Islamabad Capital Territory,

7. In view of above. Since this Court has already observed that IRRO, 2001 is applicable to all areas of the Islamabad Capital Territory**,** therefore, the learned Rent Controller has the legal authority and jurisdiction to entertain eviction petitions from any part of ICT, including the premises in question. The Petitioner/Tenant's argument, relying on the earlier notification, is rendered irrelevant in light of the principles enunciated in the above Judgement.

8. Admittedly, the Lease Agreement has expired. Additionally, the Respondent No. 1/Landlord has raised grounds of non-payment of utility bills, which were not effectively rebutted by the Petitioner/Tenant. The expiration of the Lease Agreement and non-payment of dues are valid grounds for eviction under the IRRO, 2001.

9. In light of the foregoing, this Court is satisfied that the learned Rent Controller exercised his jurisdiction lawfully in passing the eviction order which was rightly upheld by the Appellate Court. The contention of the Petitioner/Tenant regarding the lack of jurisdiction has no merit, given the extension of IRRO, 2001 to the entire ICT. Therefore, the present Writ Petition is devoid of any legal substance, hence the same is **dismissed with costs**.

(MUHAMMAD AZAM KHAN)
JUDGE

//*Kamran*//