JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

W.P. NO. 559 TO 565 OF 2025

AZAD KASHMIR LOGGING AND SAWMILL CORPORATION, MUZAFFARABAD

VS

LEARNED ADDITIONAL DISTRICT JUDGE (WEST), ISLAMABAD ETC.

Petitioner by	**:**	**Mr. Abdul Rehman Sheikh, Advocate.** (In all cases)
Respondents by	**:**	**Mr. M. Israr, Advocate for Respondent No.3 in W.P No.559 & 564/2025.** **Mr. Muhammad Bilal Azam, Advocate for Respondent No.3 in W.P No.560, 561 & 563/2025.** **Mr. Ibrahim Arshad Khan, Advocate for Respondent No.3 in W.P No.562/2025.** **Mr. Moazzam Habib, Advocate for Respondent No.3 in W.P No.565/2025.**
Date of hearing	**:**	**08.05.2025**

MUHAMMAD AZAM KHAN, J.

C.M No.1512/2025: -

Through the instant Civil Miscellaneous Application, the Applicant/Petitioner seeks permission to place certain additional documents on the record. After hearing arguments from both sides, the application is allowed, as the documents comprise notifications and enactments issued by the Government of Azad Jammu and Kashmir, which are essential for the just adjudication of the present Writ Petition.

C.M No.1513/2025: -

Exemption sought for is allowed subject to all just and legal exceptions.

MAIN CASE:

1. Through this single judgment, I intend to dispose of seven (07) Writ Petitions i.e. Writ Petitions No.559 to 565-2025 as the same have been filed by Azad Kashmir Logging and Sawmill Corporation, Muzaffarabad, Azad Government of the State of Jammu & Kashmir, AKLASC Building Complex **["Petitioner"]** against the same Judgment dated 07.12.2024 **["Impugned Judgment"]** passed by the learned Additional District Judge-XI (West), Islamabad whereby appeals filed by the private Respondents were allowed.

2. The brief facts of the case are that the Petitioner filed Eviction Petitions under the provisions of Islamabad Rent Restriction Ordinance, (IRRO), 2001 before Respondent No. 2/learned Additional District Judge against private Respondents for eviction from shops mentioned in the memo of petitions. The Eviction Petitions were contested by private Respondents by filing written replies. The learned Rent Controller, after hearing arguments of the parties on the grounds of expiry of lease agreement as well as within the purview of Section 17(8) of IRRO, 2001, vide Order and Decree dated 01.06.2024, allowed the Eviction Petitions summarily and directed the private Respondents to vacate the rented premises on 31.08.2024 subject to payment of rent. Being aggrieved by the Order and Decree dated 01.06.2024, the private Respondents filed appeals under Section 21 of IRRO, 2001 before the learned District & Sessions Judge (West), Islamabad, and the same were entrusted to learned Respondent No.1 who, after hearing the parties, vide the Impugned Judgment allowed the appeals and dismissed the Eviction Petitions, being not maintainable. Being aggrieved by the Impugned Judgment, the Petitioner has filed the instant petitions.

3. Learned counsel for the Petitioner submitted that Respondent No.1 committed legal errors in passing the Impugned Judgment, having failed to apply its judicial mind, ignored material facts and relevant legal provisions, and acted with material irregularity. It is further contended that Respondent No.1 exceeded its lawful jurisdiction while failing to exercise the jurisdiction vested in it under the law. Counsel argued that Respondent No.1 disregarded the overriding effect of the IRRO, 2001, a special law, and acted unlawfully despite the authorization being part of the record at the time of filing. Rather than deciding the matter on merits, Respondent No.1 arbitrarily decided it on a technical ground without affording the

Petitioner an opportunity to cure any defect, as required under Section 24 of IRRO, 2001. He submitted that issues of authorization are curable technicalities and should not preclude a decision on merits. In this regard, learned counsel placed reliance on 2020 CLD 872 and 2023 SCMR 236, underscoring that courts favor substantive justice over procedural technicalities. The Impugned Judgment also infringes fundamental rights and principles of policy under the Constitution, and violates established legal principles regarding the fair and just exercise of judicial discretion. In this regard, learned counsel placed reliance on 1995 SCMR 650 and 2010 SCMR 1301. He added that the Respondents' continued unlawful conduct persists despite repeated requests, and the Petitioner is left with no option but to seek relief from this Court. Learned counsel prayed that this Petition be allowed, the Impugned Judgment passed by Respondent No.1/learned Additional District Judge be declared illegal, void, and without lawful authority, and be set aside. The order passed by Respondent No.2 may kindly be upheld and declared executable, and the private Respondents be directed to comply with the eviction order in letter and spirit, in the interest of justice.

4. Learned counsel for the private Respondents argued that the learned Additional District Judge has rightly passed the Impugned Judgment keeping in view the facts and law; that Petitioner's counsel has failed to point out any illegality or irregularity in the Impugned Judgment which does not call for any interference by this Court. Lastly, learned counsel prayed for the dismissal of the abovementioned Petitions.

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

6. Petitions for recovery of possession through eviction of tenants from properties under the provisions of IRRO, 2001 were filed on 24.07.2023 by the Petitioner through its General Manager Finance and Accounts/Marketing namely Mr. Khalid Mehmood Butt, before the Rent Controller, Islamabad. Written replies were filed by the private Respondents. In the preliminary objections, besides other objections, they raised specific objection that the petitions are filed by an unauthorized person as there is no resolution annexed with the petitions and the Petitioner being a corporation is bound to follow the law on the subject which is essential for filing the Ejectment Petitions. The learned Rent Controller decided

this particular objection regarding competency of filing of Eviction Petition vide Order dated 20.02.2024 by holding that the Petitioner is competent to file the Eviction Petition, and the case was fixed for arguments within the purview of Section 17(8) of IRRO, 2001 and on the point of expiry of lease agreement as to why the Eviction Petitions may not be allowed summarily on the said ground. On 01.06.2024, the learned Rent Controller allowed the Eviction Petitions on the ground of expiry of lease agreements dated 07.06.2021, which expired on 15.10.2022, much prior to the filing of the ejectment petitions. The private Respondents impugned the order of the learned Rent Controller before the appellate forum, where the learned Appellate Court accepted the appeals on the ground that the ejectment petitions were not filed with proper authorization.

7. The Order and Decree dated 01.06.2024 was impugned before the learned Appellate Court and not the Order dated 20.02.2024, which the private Respondents failed to impugn before any higher forum, which means that the Order dated 20.02.2024 has attained finality and the private Respondents challenged only the Order and Decree dated 01.06.2024 vide which they were ejected from the demised premises. The learned Appellate Court should have decided the appeal on the ground of ejectment i.e. the expiry of lease agreement, and even if the Appellate Court was of the opinion that the present Petitioners are not authorized properly to pursue the appeal, then their right of rebuttal could have been denied. The learned Appellate Court has erred while deciding the point of authorization for filing the Eviction Petitions, as it was not impugned before it. Even from the heading of the appeal filed by the private Respondents it is apparent that they have impugned the Order and Decree dated 01.06.2024 and not the Order dated 20.02.2024.

8. The Respondents objected that the Petitioner, being a corporation, has not filed any resolution for filing the Ejectment Petitions. In this regard, it is to mention that vide minutes of the Cabinet meeting held on 21.03.2018 by the Azad Government of State of Jammu & Kashmir, Azad Kashmir Logging and Sawmill Corporation, Muzaffarabad has been wound up. The ACT-V of 2021 was promulgated by the Azad Government of the State of Jammu & Kashmir, which repealed Azad Kashmir Logging and Sawmill Corporation Ordinance, 1968 and all the assets and liabilities acquired under the repealed Act shall henceforth be the assets and liabilities of the Government of AJK. Vide Notification dated 02.03.2021, Mr.

Muhammad Naeem, Officer BS-20, AJ&K Administrative Service presently posted as Director General Sports, Youth and Culture, was assigned Additional Charge of Administrator, AKLASC. The authorization dated 21.06.2023 which was challenged by the private Respondents before the Rent Controller and then before the Appellate Court, needs to be scrutinized in order to establish whether it is a proper authorization or not.

9. The authorization dated 21.06.2023 is addressed by Muhammad Naeem, the Administrator duly appointed by the AJK Government vide Notification dated 02.03.2021, addressed to Mr. Abdul Rehman Sheikh, Advocate High Court Islamabad in which he has been nominated and engaged to appear, plead and prosecute the cases referred in the cases titled "AKLASC Vs. Asma Faiz & others", to be adjudicated before the Civil Judge 1st Class/Rent Controller-West, Islamabad, on behalf of Petitioner. In the same authorization, Mr. Khalid Mehmood Butt, General Manager Finance & Accounts/Marketing Azad Kashmir Logging and Sawmill Corporation Muzaffarabad was appointed as an authorized Officer to correspond with Mr. Abdul Rehman Sheikh Advocate and he was further authorized to do whatever he thinks fit and proper in favor of the Government of AJK. This authorization is issued under the heading of "AZAD Government of the State of Jammu & Kashmir Office of the Administrator AKLASC Muzaffarabad". This authorization is very much clear and expressive in which the Administrator duly appointed by the AJK Government, authorized Khalid Mehmood Butt, General Manager as authorized Officer and nominated and engaged counsel for filing petitions before the competent court of law. The observation made by the Appellate Court is totally misconceived that the Eviction Petitions were filed without express authorization. This Court is unable to conceive what was in the mind of the learned Appellate Court regarding what is meant by express authorization. This authorization dated 21.06.2023 is an express authorization to Mr. Khalid Mehmood Butt to do whatever he thinks fit and proper in favor of the Government of AJK. The second point that there must be a resolution of the Corporation for filing the Eviction Petitions is baseless as the Corporation was wound up way back in year 2018 through a Cabinet decision of AJK Government and ACT-V of 2021, hence, there was no need for any kind of Resolution as all the assets and properties were devolved to the Government of AJK.

10. Besides deciding the status of authorization, this Court will also decide the question of the acceptance of the ejectment petitions on the ground of expiry of lease agreement between the parties. In this regard, IRRO 2001 is very much clear that upon the expiry of the lease agreement, the tenant loses his right of tenancy immediately and is liable to be ejected/evicted under Section 17(2)(ii)(b) of IRRO, 2001. Reliance is placed on case titled *"Waqar Zafar Bakhtawri Vs. Haji Mazhar Hussain Shah"* **(PLD 2018 Supreme Court 81)**, the relevant portion of which is reproduced as under: -

> *"12. Thus, we conclude that as after expiration of the tenancy period, a tenant, though can continue to hold over the possession of the rented premises, but his tenancy is rendered invalid, in that, it has come to an end that if there is no express consent of the landlord to extend the tenancy period the tenant shall be guilty of having infringed the conditions of tenancy, rendering him liable to be evicted under section 17(2)(ii)(b) of the Ordinance, 2001. In the light of the above, we do not find any merit in these appeals, which are hereby dismissed."*

11. For what has been discussed above, the instant Writ Petitions are **allowed** and the Impugned Judgment dated 07.12.2024 is hereby set aside.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the open Court on this _____day of May 2025.

JUDGE

//Sajid//