ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No.1126 of 2025

Zahid Ayub Khan
Versus
Shahid Ayub Khan, etc

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	24.03.2025.	**Mr. Muhammad Jamshaid Hussain, Advocate for the petitioner.**

This order shall decide the above titled writ petition as well as the writ petitions mentioned in Annexure-A as all these writ petitions involve similar question of facts and law.

2. In all the writ petitions, the petitioner has assailed the order dated 03.03.2025 **("Impugned Order")**, passed by the learned Rent Controller Islamabad-West **("Rent Controller")**, whereby an application under Order XII, Rule 6, CPC, filed by the petitioner in all the eviction petitions has been dismissed.

3. Brief facts are that respondents No.1 & 2 are real brother of the petitioner and co-owners of the property in dispute i.e Photohar Plaza, Unit No.9, Fazal Haq Road, Blue Area, Islamabad, whereas respondent No.3 in all the petitions is tenant of the petitioner. Respondents No.1 & 2 filed an eviction petition u/s 17 of the Islamabad Rent Restriction Ordinance, 2001 **("IRRO, 2001")** not only against

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the petitioner but also against his tenant/respondent No.3. The petitioner appeared before the learned Rent Controller and filed written statement, wherein it was categorically stated that no relationship of landlord and tenant exist between respondents No.1 & 2 and the present petitioner as well as respondent No.3. The issues were framed and thereafter evidence was being recorded. During cross-examination attorney of the respondents No.1 & 2 admitted that respondents No.1 & 2 have no rent agreement with the petitioner and respondent No.3/tenant. Upon this admission the petitioner filed an application under Order XII, Rule 6, CPC before the learned Rent Controller for pronouncement of the judgment, which was dismissed by the learned Rent Controller through the Impugned Order after hearing arguments of the learned counsel for the parties.

4. The learned counsel for the petitioner contended that the Impugned Order is against the facts and law; that after the admission by respondents No.1 & 2 no further proceedings could be conducted in the eviction petitions; that the Impugned Order is based on surmises and conjectures.

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5. I have heard the learned counsel for the petitioner and perused the record.

6. Under Order XII, Rule 6, CPC a Civil Court is empowered to dispose of the lis with regard to which there is no dispute between the parties but for this purpose the entire plaint or written statement is required to be read for the purposes of finding out the nature of the admission, whether it is clear, specific, unambiguous, definite and categorical. The Court is bound to examine the plaint and written statement with diligent application of mind to ascertain the nature of the admission. The case of the petitioner is that on the basis of the admission made by the attorney of respondents No.1 & 2 during cross-examination that respondents No.1 & 2 have no rent agreement with the petitioner and respondent No.3/tenant, the eviction petition may be dismissed by pronouncing the judgment. It is not case of the petitioner that the respondents have made the admission in the eviction petition as such the admission during cross-examination on behalf of respondents No.1 & 2 is not covered by Order XII, Rule 6, CPC. Reliance is placed upon ***Divisional Superintendent***

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***Postal Services Faisalabad and others vs. Khalid Mahmood and others*, (2023 SCMR 354)**.

7. Moreover, it is settled law that the provisions of CPC are not applicable in the rent proceedings in *stricto sensu*, however, the learned Rent Controller is free to follow the equitable principles contained in CPC. Reliance is placed upon ***Ayub Khan vs. Fazal Haq,* (PLD 1976 SC 422)** and ***Bambina Limited vs. Selmor International Limited,* (PLD 1983 SC 155)**.

8. Last but not the least, the Impugned Order is not a final order, against which there is no remedy of appeal under the IRRO, 2001. It is settled law that where appeal is barred by the legislature, the petition is not maintainable as it will tantamount to defeat the will of the legislature. Moreover, the Constitutional jurisdiction is invoked and made available in cases of imminent, grave and tangible threats to available personal and property rights that too subject, *inter alia*, condition that the legal remedy, if at all any available in the circumstances, is not efficacious or adequate. In the case in hand, an order which by itself caused no tangible damage to the petitioner and is incapable of causing any, was challenged. Reliance is placed upon

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***Muhammad Saeed vs. Mst. Sirat Fatima,* (PLD 1978 [Lahore] 1459)** and ***Mohammad Tariq vs. Safdar Hussain, (*2016 MLD 67 [Lahore]).**

9. In view of the foregoing, I hold that the Impugned Order has been passed in accordance with law and no illegality has been found that would result in miscarriage of justice. Consequently, the instant writ petition as well as the writ petitions mentioned in Annexure-A, are **dismissed in *limine*.**

(INAAM AMEEN MINHAS)
JUDGE

R.Anjam.

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Annexure-A

1.	Writ Petition No.1127/2025	Zahid Ayub Khan vs. Shahid Ayub Khan, etc
2.	Writ Petition No.1128/2025	Zahid Ayub Khan vs. Shahid Ayub Khan, etc
3.	Writ Petition No.1129/2025	Zahid Ayub Khan vs. Shahid Ayub Khan, etc
4.	Writ Petition No.1130/2025	Zahid Ayub Khan vs. Shahid Ayub Khan, etc
5.	Writ Petition No.1131/2025	Zahid Ayub Khan vs. Shahid Ayub Khan, etc
6.	Writ Petition No.1132/2025	Zahid Ayub Khan vs. Shahid Ayub Khan, etc
7.	Writ Petition No.1133/2025	Zahid Ayub Khan vs. Tahir Ayub Khan, etc

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