JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

W.P. NO. 2138 OF 2025

MUBASHIR RAZA

VS

IDRIS ALI ETC.

Petitioner by	**:**	**M/s Tabassum Rashid Siddiqui and Mr. Khalid Mehmood Mughal, Advocates.**
Respondents by	**:**	**Mr. Muhammad Shahzad Siddique, Advocate for the Respondent No.1.**
Date of hearing	**:**	**09.07.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 **("Constitution")**, Mubashir Raza ("**Petitioner**") has challenged the Judgment & Decree dated 01.07.2024 ("**Impugned Judgment & Decree-I**") passed by the learned Civil Judge/Rent Controller, Islamabad-East ("**Rent Controller**") whereby the Eviction Petition filed by Idris Ali ("**Respondent No.1**") has been accepted. The Petitioner has further assailed the Judgment & Decree dated 12.05.2025 **("Impugned Judgment & Decree-II")** passed by the learned Additional District Judge-V, Islamabad-East **("Appellate Court")**, whereby the Appeal filed by the Petitioner against the Impugned Judgment & Decree-I has been dismissed**.**

2. The brief facts of the case, as per the memo of Petition, are that Respondent No.1 filed an eviction petition under Section 17 of the Islamabad Rent Restriction Ordinance, 2001, contending therein that a Lease Agreement dated 08.05.2018 was executed between the Petitioner's father, namely Malik Shoukat Ali, and Respondent No.1 in respect of five shops (No.1 to 5), situated at Malik Idrees Ali Shopping Centre, Main Bazar, Sohan, Tehsil & District Islamabad, for a period of five years w.e.f**.** 01.05.2018 to 30.04.2023, and the rent was fixed at Rs.23,500/- with a 10% annual increase. The lease expired on

30.04.2023. Despite this, the Petitioner continued to occupy the premises. On 23.04.2023, Respondent No.1 issued a notice to the Petitioner for vacating the demised premises, but he did not respond. Hence, the Respondent No. 1 preferred the Eviction Petition.

3. Firstly, the Petitioner was summoned through notice and even through proclamation in the daily newspaper "Din", but no one appeared on behalf of the Petitioner, therefore, he was proceeded against ex parte vide Order dated 25.05.2023, and vide Order dated 06.06.2023, an ex-parte judgment was passed. Thereafter, the Petitioner appeared before the learned Rent Controller and filed an application for setting aside ex-parte proceedings against him, which was accepted, and the Petitioner contested the Eviction Petition by filing a written reply. On 02.10.2023, out of the divergent pleadings of the parties, issues were framed.

4. In order to prove their respective claims, Respondent No.1 appeared through his Attorney, namely Ehsan Ullah Khan as AW-1, tendered Special Power of Attorney as Ex.A-1, his affidavit in evidence as Ex.A-2, Rent Agreement dated 08.05.2018 as Ex.A-3, Rent Agreement dated 19.08.2014 as Ex.A-4, Copy of Fard/Bainama measuring 8½ marlas dated 30.01.2012 as Ex.A-5, and Fard/Bainama measuring 6 marlas bearing Mutation No.10007 as Ex.A-6. Respondent No.1 also produced Muhammad Nawaz as AW-2 who tendered his Affidavit in Evidence as Ex.A-7, and Shoukat Ali as AW-3 who produced his Affidavit in Evidence as Ex.A-9.

5. Muhammad Mubashir (Petitioner) appeared through his Attorney, namely Kamran Raza, as RW-1, and tendered his Affidavit in Evidence as Ex.R-1, receipts dated 13.02.2019, 11.02.2019, and 13.02.2019 as Ex.R-2, receipts dated 06.03.2019, 05.03.2019, and 05.02.2019 as Ex.R-3, receipts dated 11.01.2020 and 04.07.2019 as Ex.R-4, two receipts dated 28.01.2019 as Ex.R-5, receipt dated 22.01.2020 as Ex.R-6, four pictures of the property in question as Ex.R-7, and Special Power of Attorney as Ex.R-8.

6. After hearing arguments of the parties, the Eviction Petition filed by Respondent No.1 was accepted vide Impugned Judgment & Decree-I. Being aggrieved, the Petitioner filed an appeal before the learned District Judge,

Islamabad-East. After hearing arguments, the learned Additional District Judge-V, Islamabad-East, vide Impugned Judgment & Decree-II, dismissed the appeal with cost of Rs.10,000/- and directed the Petitioner to vacate the demised premises within 20 days without fail. Feeling aggrieved, the Petitioner has filed the instant Writ Petition.

7. The learned counsel for the Petitioner contended that the Impugned Judgments suffer from legal and factual infirmities, as the learned Courts below failed to appreciate that the purported Agreement dated 08.05.2018 contradicts the stance taken by Respondent No.1, which is premised on a fabricated narrative and stands discredited by Respondent No.1's own evidence. He further submitted that the witnesses of Respondent No.1 negated the contents and venue of the alleged agreement and expressed lack of knowledge regarding its execution. It was alleged that the stamp paper used was originally meant for a sale transaction and valued at Rs.100/-, but was converted to a rent agreement with *mala fide* intention by the father of Respondent No.1, and the Eviction Petition was filed through Respondent No.1. It was also argued that the subject property does not fall within the jurisdiction of Islamabad Rent Restriction Ordinance, 2001, as per Letter dated 15.03.2018, by which Zone IV of ICT was excluded. Therefore, the learned Rent Controller had no jurisdiction. He further contended that the Impugned Judgments are the result of misreading and non-reading of evidence, that the evidence was not appreciated properly, and that the Petitioner is a bona fide purchaser of the suit shops and had also constructed the subject building, evidence of which was produced. Lastly, he prayed for acceptance of the Petition and setting aside of Impugned Judgments, and dismissal of the Eviction Petition filed by the Respondent No.1.

8. On the other hand, the learned counsel for Respondent No.1 argued that the Impugned Judgments are well-reasoned and based on the facts and evidence on record; that there is no misreading or non-reading of evidence; and that the Impugned Judgments suffer from no legal or jurisdictional defect. He prayed for dismissal of the instant Petition.

9. After hearing the learned counsel for the parties and examining the record, it is evident that both the learned Rent Controller and learned Appellate

Court arrived at concurrent findings of facts based on evidence and applicable law.

10. The Petitioner has primarily challenged the eviction on the ground that the tenancy Agreement dated 08.05.2018 was forged or manipulated as the same was not intended as a lease agreement.. However, the said Agreement was exhibited as Ex.A-3 and duly proved through the testimony of Respondent No.1's Attorney (AW-1), supported by prior agreement\ (Ex.A-4) and ownership documents (Ex.A-5, Ex.A-6). Witnesses AW-2 and AW-3 also deposed in support and remained unshaken in cross-examination. The Petitioner failed to produce any direct evidence or expert opinion to establish that the stamp paper was originally for a sale transaction or was later altered.

11. The allegation of fabrication is a factual issue already adjudicated upon by two competent forums, both of which found the Agreement valid. In absence of any glaring illegality or jurisdictional defect, this Court cannot reappraise evidence while exercising jurisdiction under Article 199 of the Constitution. It is settled law that concurrent findings of facts based on evidence cannot be disturbed unless shown to be the result of misreading, non-reading, or violation of law.

12. As for the Petitioner's claim of ownership or bona fide purchase, such disputes fall outside the scope of IRRO, 2001. The Rent Controller is concerned with the existence of a landlord-tenant relationship and grounds of eviction. The learned Rent Controller rightly noted that the Petitioner failed to produce a registered sale deed or mutation record. Mere possession and payment receipts (Ex.R-2 to Ex.R-6) do not prove ownership.

13. Notably, on 03.06.2025, the Petitioner filed an application before the learned Executing Court seeking an extension of two months to vacate the leased premises, which was dismissed. This conduct, while simultaneously pursuing a writ petition, shows acknowledgment of the tenancy relationship.

14. The claim that the Courts below ignored Petitioner's evidence is unfounded. The Impugned Judgments reflect that both sides' affidavits and evidence were examined, and conclusions were drawn with reasoning. The

Petitioner's allegation of misreading or non-reading of evidence appears to be a mere disagreement with the outcome rather than any identifiable legal infirmity.

15. In view of the above, this Court finds that both the Impugned Judgments & Decrees dated 01.07.2024 and 12.05.2025 are well-reasoned, based on proper appreciation of evidence, and based on legally sound reasoning. As such the concurrent findings do not warrant interference under Article 199 of the Constitution.

16. The Petitioner has failed to point out any violation of fundamental rights, misapplication of law, or miscarriage of justice. The Constitutional jurisdiction is not a substitute for appellate remedies, particularly in the presence of review where competent Courts have recorded concurrent factual findings based on properly recorded evidence.

17. For what has been discussed above, the instant Writ Petition is hereby **dismissed**.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the open Court on this _____ day of July 2025.

JUDGE

//Sajid//