JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

W.P. NO. 1494 OF 2025

MUHAMMAD NAZIR ETC
VS.
ADDITIONAL DISTRICT JDUGE-WEST, ISLAMABAD ETC.

W.P. NO. 2779 OF 2025

MUHAMMAD NASEEM ETC.
VS.
ADDITIONAL DISTRICT JDUGE-WEST, ISLAMABAD ETC

Petitioners by	**:**	**Mr. Muhammad Shahzad Siddique Advocate, in both Writ Petitions.**
Respondents by	**:**	**Ch. Muhammad Javed and Ms. Fariha Jaffar Bajwa Advocates for Respondent No. 3 in both Writ Petitions.**
Date of hearing	**:**	**29.07.2025**

MUHAMMAD AZAM KHAN, J.

1. By way of this common judgment, I intend to dispose of both the titled Writ Petitions filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the "**Constitution**"), whereby the Petitioners have challenged the Judgment dated 28.02.2025 **("Impugned Judgment and Decree-I")** passed by the learned Senior Civil Judge-IV/Rent Controller, West-Islamabad, whereby the Eviction Petition filed by Muhammad Mohsin Saud Awan **("Respondent No. 3")**, was allowed. The Petitioners have also challenged the Judgment dated 30.06.2025 **("Impugned Judgment and Decree-II")** passed by the learned Additional District Judge, Islamabad-West, whereby the appeal filed by the Petitioners against the Impugned Judgment-I has been dismissed.

2. The brief facts of the case, as per the contents of the Memo of Petition, are that Respondent No. 3 filed an Eviction Petition under Section 17 of the Islamabad Rent Restriction Ordinance, 2001, before the learned Rent Controller West, Islamabad, contending therein that he is the landlord of land measuring 13 Kanal, 15 Marlas, upon which he constructed 18 residential units comprising approximately 92 rooms, and the same was leased to the

Petitioners/Respondents through a verbal Lease Agreement dated 05.12.2021 for a period of 9 months, from 01.12.2021 to 31.08.2022, further extended for another 9 months from 01.09.2022 to 31.05.2023. The said premises were initially rented out to Juma Khan, Gul Khan, Sakhi Khan, and Aziz Khan, while Habib Khan Afghani collected and handed over the rent to the Respondent No. 3's father. The rent was fixed at Rs. 500/- per room, totaling Rs. 46,000/- per month for all rooms. The Petitioners were provided electricity through 12 installed meters, out of which 4 meters were disconnected due to non-payment of electricity charges. Upon expiry of the second lease period, the Petitioners requested the Respondent No. 3 to allow them to live there for a further 3 months, which was accepted by him by giving permission to stay there till 31.07.2023. However, the Petitioners failed to vacate the premises by the agreed date, stopped paying rent, and neglected to pay the electricity bills, leading to further disconnections. Respondent No. 3 time and again requested the Petitioners to vacate the rented premises and pay the outstanding rent to him but in vain. Hence, the Respondent No. 3 filed the Eviction Petition on the grounds that the Petitioners are willful rent defaulters of 3 months, he is not willing to continue the tenancy with the Petitioners, the premises are required for his personal use, and that the Petitioners made structural changes in the premises.

3. The Eviction Petition was contested by the Petitioners by filing a written reply. After framing the issue of whether there existed a relationship of tenancy between the parties, the parties were directed to produce evidence. The Respondent No. 3 appeared in the witness box as AW-1, tendered his affidavit in evidence as Ex. A-1 (2 pages), receipt payment as Ex. A-5 (2 pages), copy of Google map as Ex. A-6, receipts regarding payment as Ex. A-7 (25 pages), and electricity bills as Ex. A-8. He also produced Wajid Hussain, Arif Nadeem, and Nawazish Ali as AW-2, AW-3, and AW-4, respectively, who produced their affidavits in evidence as Ex. A-2, Ex. A-3, and Ex. A-4, respectively. On the other hand, the Petitioners Mohsin Azad, Muhammad Naseem Khan, Uzair Khan, Muhammad Nazir Khan, Khair Ullah, Ghulam Sakhi, Rozi Khan, Muhammad Kabir, Muhammad Hashim, Sher Ali, Muhammad Nabi, Yar Muhammad, and Noor Ali appeared in the witness box as RW-1 to RW-13 and produced their affidavits in evidence as Ex. RW-1 to 13, respectively. After hearing the arguments of the parties, the learned Rent Controller allowed the Eviction Petition vide Impugned Judgment-I. Being aggrieved by the Impugned Judgment-I, the Petitioners in W.P. No. 1494/2025 filed an appeal before the learned Additional District Judge, West-Islamabad, which has been dismissed

on merits vide Impugned Judgment-II, whereas the appeal filed by the Petitioners in W.P. No. 2779/2025 has been dismissed as time-barred. Being aggrieved by the Impugned Judgments and Decrees, the Petitioners have filed the instant Petitions.

4. The Petitioners' counsel submits that the learned lower Courts have not appreciated the lawful substance of the Petitioners and exercised jurisdiction without appreciating the version of the Petitioners; that the Impugned Judgments and Decrees are against the law and facts of the case; that the learned lower Courts have passed orders for ejectment of the Petitioners in a hurried manner without giving reasonable time to the Petitioners, which is against the spirit of the Islamabad Rent Restriction Ordinance, 2001; that the learned Courts have acted with material illegality and irregularity while passing the Impugned Judgments and Decrees; that the learned Rent Controller as well as the Appellate Court have failed to apply their judicial minds while passing the Impugned Order & Judgment. Lastly, learned counsel prayed that both the Petitions may kindly be accepted, Impugned Judgments and Decrees may kindly be set aside, and the Eviction Petition may kindly be dismissed.

5. On the other hand, learned counsel for the Respondent No. 3 argued that the eviction order has been passed by the learned Rent Controller keeping in view the facts and evidence available on record; that the Petitioners were given ample opportunity to contest the Eviction Petition, file a written statement, lead evidence, and argue the case on merits; that the Petitioners' counsel has failed to point out any procedural irregularity or jurisdictional error in the Impugned Judgments and Decrees; that the Writ Petition be dismissed as devoid of merit, and the eviction order be upheld in the interest of justice and to prevent abuse of the legal process.

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

7. The foremost and pivotal issue in the present case revolves around the existence of a landlord-tenant relationship between the parties. The Petitioners have unequivocally denied such a relationship with Respondent No. 3, both in their written reply and during oral submissions. According to them, they were not tenants of Respondent No. 3 but of other alleged owners, including Malik Husnain, Junaid Husnain, Abdul Qareem, Muhammad Zaman, Naseem Tauseef, Ch. Azad Husnain, Ch. Muhammad Saddique, Muhammad Altaf, and Fatima Bibi. However, upon careful scrutiny of the evidence, including the

available record of the learned Trial Court's proceedings, it becomes evident that this defense lacks both legal and evidentiary substance.

8. The Respondent No. 3, in support of his claim, adduced robust oral and documentary evidence. He appeared as AW-1 and produced twenty-five rent receipts (Ex. A-7/1 to A-7/25), which explicitly bear reference to monthly rent payments received from the Petitioners. These receipts detail the nature of the transactions and refer directly to the occupancy of the demised premises by the Petitioners. Crucially, during cross-examination, learned counsel for the Petitioners did not put a single question regarding the authenticity, contents, or validity of these receipts. It is a well-settled principle of law that any document that is not challenged during cross-examination stands admitted as true and uncontroverted. In this regard, reliance is placed on the oft-cited maxim that what is not rebutted in cross-examination is deemed to be admitted.

9. The legal burden of proof, following the denial of tenancy, squarely shifted to the landlord under the principles enunciated in *Umer Tanveer Butt v. M. Ibrahim* **(2020 YLR 2269)** by this Court. There, it was held that upon denial of tenancy, the landlord must substantiate his claim through either a written lease, rent receipts, or credible witness testimony. The Respondent No. 3 has satisfactorily discharged this burden not only by producing the rent receipts but also through the testimonies of AW-2 (Wajid Hussain), AW-3 (Arif Nadeem), and AW-4 (Nawazish Ali), who fully corroborated the version presented by the landlord. The evidence led by Respondent No. 3, therefore, meets the legal standard required to establish tenancy under Section 2(j) of the Islamabad Rent Restriction Ordinance, 2001 which defines a tenant as under:-

> *"2(j) any person who undertakes or is bound to pay rent as consideration for the possession or occupation of a building or rented land by him or by any other person on his behalf, and includes---*
>
> *(i) Any person who continues to be in possession or occupation after the termination of his tenancy; and*
>
> *(ii) In the event of death of the tenant, the members of his family who continue to be in possession or occupation of the building or rented land".*

In the instant case, rent was admittedly paid to Respondent No. 3/landlord, and the Petitioners remained in occupation beyond the agreed date without paying

rent. Hence, they fall squarely within the statutory definition of "tenant" under the Ordinance.

10. On the other hand, the Petitioners' defense is riddled with inconsistencies and contradictions. Not only did several key respondents fail to appear as witnesses, thereby weakening their defense, but those who did testify presented contradictory narratives. For example, while their joint written reply claims that all of them were tenants of multiple third-party individuals, their oral testimonies failed to maintain this consistency. Witness RW-1 (Mohsin Azad) claimed to own 4 Kanals and asserted that some respondents were his tenants, directly contradicting the written claim that others were landlords. Several other respondents (RW-2, RW-5, RW-6, RW-7, RW-8, RW-9, RW-11, RW-12 & RW-13) expressed ignorance about who their landlord was or named persons inconsistent with their written reply. Such contradictory and evasive responses seriously undermine the credibility of their defense and indicate an attempt to fabricate a non-existent defense merely to resist eviction.

11. The learned Rent Controller correctly appreciated these aspects of the record and applied the correct burden of proof analysis, concluding that the Petitioners were indeed tenants of Respondent No. 3 and failed to vacate the premises after the expiry of the tenancy. In doing so, the learned Rent Controller relied not only on sound legal precedent but also gave due weight to unchallenged and unimpeached evidence. The absence of any cross-examination on critical documents such as rent receipts and the lack of coherence in the Petitioners' version justified the findings recorded by the learned Rent Controller.

12. Furthermore, under Section 2(g) of the Islamabad Rent Restriction Ordinance, 2001, a landlord is defined not merely as the owner but also as one entitled to receive rent, even if on behalf of another person. The Respondent No. 3 clearly falls within this statutory definition, as he was shown to have received rent for the property and maintained direct dealings with the occupants. Accordingly, even if ownership was disputed or multiple owners existed, that does not negate the tenancy nor the landlord's entitlement to seek eviction under the statute.

13. Importantly, no jurisdictional error, violation of fundamental rights, or procedural illegality has been demonstrated in the findings of the Rent Controller or the Appellate Court. Both the Courts exercised their authority within the bounds of law, provided adequate opportunity to both parties to present evidence, and reached findings based on the evidence. It is trite law that

the High Court, while exercising writ jurisdiction under Article 199, does not sit as a Court of appeal and does not interfere with concurrent findings of fact unless perversity, *mala fide* intent, or material illegality is clearly established, which has not been shown in the present case.

14. In view of the above discussion, it is conclusively held that the relationship of landlord and tenant between Respondent No. 3 and the Petitioners stands established. The Petitioners have failed to discharge the burden of proving otherwise and have presented inconsistent and contradictory evidence. The learned Rent Controller rightly relied on unchallenged rent receipts and credible oral testimony while rejecting the Petitioners' vague defense. The findings recorded by the learned Rent Controller and the Appellate Court are well-reasoned, lawful, and in accordance with settled legal principles. There exists no ground warranting interference by this Court under Article 199 of the Constitution. Accordingly, both the titled Petitions are devoid of merit; hence, **dismissed**.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the open court on _____.

JUDGE

//Sajid//