JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

WRIT PETITION NO. 3447 OF 2025

I-Active (Private) Limited and another
Versus
M/s Saifco Developers and 2 others.

Petitioner by	**:**	**Mr. Feisal Hussain Naqvi, Advocate.**
Respondents by	**:**	**Mr. Qaiser Qadeer Qureshi Advocate for the respondent No.1.**
Date of Hearing:		**03.10.2025**

MUHAMMAD AZAM KHAN, J: The petitioners have invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, being aggrieved of the judgment dated 04.07.2025 passed by the learned Additional District Judge (West), Islamabad, whereby the appeal U/s 21 of the Islamabad Rent Restriction Ordinance, 2001 filed by the Respondent No. 1 challenging the order dated 30.01.2025 passed by the learned Rent Controller, has been allowed. The petitioners contend that the impugned orders are without lawful authority, jurisdiction, and in violation of the settled principles of rent law, as the learned court below has failed to appreciate that no landlord-tenant relationship exists between the petitioners and the respondent.

2. Conversely, the learned counsel for the respondent opposed the contentions advanced on behalf of the petitioners and submitted that the impugned judgment has been passed strictly in accordance with law and does not suffer from any legal infirmity or procedural irregularity. He further contended that the learned court below has rightly appreciated the facts and evidence on record and therefore, do not call for any interference.

3. I have heard the arguments advanced by the learned counsel for both the parties and perused the interim order as well as final order passed by the fora below. For ease of reference, the order dated 18.10.2024 passed by the learned Rent Controller is reproduced *verbatim* hereunder: -

"ORDER

1. This is disposal of an application for appropriate order moved on behalf of the respondent.

2. The respondent has moved the application inter alia contending therein that the petition is not maintainable as the petitioner is a stranger and the respondent is regularly paying monthly rent to the landlords as per lease agreement.

3. Heard and perused.

4. The respondent has mainly contended that the petitioner is a stranger and the respondent is regularly paying the rent to its landlords. During the course of arguments, learned counsel for the respondent assisted that as per rent agreement the petitioner is only managing the property whereas lessors are the owners of shops detailed whereof is also provided in the annexure-A of the lease agreement. In this regard, any conclusive findings at this stage would not be appropriate, however, apparently the argument of learned counsel for the respondent is true but the name of the petitioner company is also figuring at different serial numbers of annexure-A and it also depicts that certain amount of rent was payable to the petitioner company. Hence, prima facie, the lease agreement establishes a locus standi of the petitioner to file this eviction petition.

5. As a necessary corollary to above discussion, the application stands dismissed. Adjourned to 28.10.2024 for arguments with respect to tentative rent orders."

4. Where after, the learned Rent Controller proceeded to pass another order on 30.01.2025, which was impugned before the learned Additional District Judge, is also reproduced *verbatim* as under: -

"ORDER
30.1.2025

Present: Learned counsels for parties.

As per the record, the respondent has denied the existence of a landlord-tenant relationship. During the course of arguments, learned counsel for the respondent has vehemently reiterated that the petitioner is merely the management company of the plaza, entitled only to collect CAM charges, while the original owners of individual shops are the true landlords of the respondent. In these circumstances, the appropriate course of action

to decide the eviction petition is settlement of an issue regarding relationship of landlord and tenant, hence following issues are settled:

ISSUES
i. Whether there exists relationship of landlord and tenant between the parties? OP Parties.

ii. Relief.

Parties may submit the list of witnesses within stipulated time. Adjourned to 11.02.2025, for evidence of the petitioner."

5. Once the learned Rent Controller had already concluded that the relationship of landlord and tenant stood admitted between the parties, any subsequent attempt to reopen or re-determine that settled question was beyond his jurisdictional competence. Such an exercise, in effect, amounted to a review of his earlier order, which the law does not permit in rent proceedings.

6. The learned appellate court, in these circumstances, rightly corrected the procedural irregularity by remitting the matter with the direction to the Rent Controller to proceed strictly in accordance with law. The appellate order reflects a judicious appreciation of the record and adherence to settled legal principles. No error of jurisdiction, illegality, or material irregularity has been pointed out that would warrant interference in constitutional jurisdiction. Resultantly, petition is devoid of merit and hereby **dismissed**.

7. Before parting with this judgment, it is considered appropriate to record an observation regarding the manner in which the learned Rent Controller conducted the proceedings. The record reflects that, on one occasion, the learned Rent Controller passed an order acknowledging that the relationship of landlord and tenant stood admitted between the parties; however, on a subsequent date, in the very same proceedings, he proceeded to frame an issue to determine whether such a relationship existed. This inconsistency appears to stem from a lack of clarity rather than deliberate disregard of law, yet it nonetheless demonstrates a lapse in judicial application of mind. Once a finding, whether prima facie or otherwise, has been recorded on a material question, it should not be reopened without lawful justification or statutory authority to review. Such inconsistency

in approach, though possibly inadvertent, tends to undermine procedural regularity and may erode litigants' confidence in the predictability and coherence of judicial decision-making.

8. It is, therefore, expected that Presiding Officers shall exercise due care and caution in drafting their interim and final orders, ensuring that their observations are precise, consistent, and legally sustainable. Every judicial order, regardless of its nature, must reflect due consideration of the record and a conscious application of mind to the relevant provisions of law. Judicial officers must remain mindful that each order they pass is a reflection of their competence, integrity, and adherence to legal principles. Any lapse in this regard, however inadvertent, may not only prejudice the rights of litigants but also diminish public confidence in the impartiality and reliability of the judicial process.

9. The learned MIT of this Court is also expected to remain vigilant in its supervisory role by maintaining regular oversight and conducting periodic evaluations of trial court orders. Where recurring procedural irregularities or legal misapplications are noticed, such instances may be appropriately brought to the attention of the competent administrative authority for necessary guidance, training, or corrective measures.

10. These observations are made not in a spirit of criticism, but with a view to strengthening institutional efficiency and enhancing the overall quality of judicial performance. The purpose is to safeguard the valuable property rights of litigants and to ensure that judicial orders emanate from a process that is both lawful and judicious, thereby reinforcing public trust in the administration of justice.

(MUHAMMAD AZAM KHAN)
JUDGE

Approved for Reporting