

JUDGMENT SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P. No.3137 of 2024

Muhammad Naveed Awan

Versus

Additional District Judge, Islamabad (West), etc.

Petitioner by: M/s Riasat Ali Azad and Muzammil Hussain
Shahad, Advocate.

Respondents No.3 to 5 by: Mr. Ahmed Murtaza Langrial, Advocate.

Date of Hearing: 19.06.2025

KHADIM HUSSAIN SOOMRO, J:- Through this writ petition, the petitioner impugned order dated 12.10.2024, passed by the Court of the learned Additional District Judge, Islamabad, whereby his appeal against the order dated 14.09.2024 passed by the Court of the learned Rent Controller, Islamabad was dismissed, and eviction order passed by learned Rent Controller Islamabad was maintained.

2. Brief facts of the case are that the agent/attorney of the respondent, namely Muhammad Shamraiz son of Gulzaman Khan, and Ali Bahadar along with Mst. Hussan Ara Ali Bahadur (wife of landlord)), entered into a lease agreement dated 26.11.2011, whereby the monthly rent was fixed at Rs. 80,000/- with a 10% annual enhancement in rent amount. The tenancy was fixed for a period of ten (10) years, commencing from 15.12.2011 and ending on 15.12.2021. It is pertinent to mention here that the petitioner paid Rs.400,000/- to first Mst. Hussan Ara Ali Bahadur (Landlady), which would be returnable by landlady at the time of vacation after deduction of any arrears of utility and/or wear and tear. Thereafter, on 22.01.2020, the petitioner and landlady entered into another lease agreement regarding the

same rented premises, whereby the monthly rent was fixed at Rs.13,5000/- with a 5% annual enhancement. The tenancy period was fixed for three (03) years, i.e., from 01.01.2020 to 31.12.2022. Later on, both parties verbally agreed to extend the tenancy period for a further term of three (03) years. Since then, the petitioner has been regularly paying the monthly rent and utility bills, without default. The petitioner is not a defaulter, even for a single penny, and has always discharged all obligations under the tenancy. There exists no relationship of landlord and tenant between the petitioner and respondents No.3 to 5 that respondents No.3 to 5 failed to intimate the petitioner regarding the alleged transfer of ownership, which is mandatory under the law. Despite this, respondents No.3 to 5 filed an ejectment petition before respondent No.2, which was allowed vide order dated 14.09.2024. Being aggrieved by the orders dated 14.09.2024 and 12.10.2024, the petitioner has filed the instant petition before this Court.

3. Learned counsel for the petitioner submitted that the relationship of landlord and tenant is specifically denied. It was contended that a mandatory notice under Section 19 of the Islamabad Rent Restriction Ordinance, 2001, regarding the change of ownership, has not been served upon the petitioner. The purported action is, therefore, in violation of the petitioner's fundamental right to due process as enshrined under Article 10-A of the Constitution of the Islamic Republic of Pakistan, 1973. It was further contended that the petitioner continues to pay rent to the previous owner/landlord, as no lawful intimation or documentation of ownership transfer has been provided in accordance with law. Learned counsel for the petitioner also submitted that the impugned orders are against the law and facts; that the petitioner has never defaulted in payment of rent and has paid the rent regularly during the pendency of rent petition till to date; that

impugned orders have not been passed according to the dictum laid down by the Superior Courts; that the impugned orders are not found on cogent reasons, it is based on conjectures and surmises; that the impugned orders contained a patent irregularity, illegality and against the law which are liable to be set aside; that the learned Rent Controller has erroneously allowed the ejectment application without recording of evidence, which is a fundamental requirement of law; that the pleadings alone cannot be treated as evidence unless duly substantiated by oral testimony under oath by a witness appearing in the witness box; that in several similarly situated matters, the District Judge has remanded the cases for the recording of evidence; however, in the petitioner's case, the appeal was dismissed without affording the same procedural treatment, thereby causing a grave miscarriage of justice. Learned counsel placed reliance on cases reported as "Roger Lee Vs. Ch. Muhammad Salman and others (2017 YLR 681) and "Sh. Tauseef Hussain Vs. Additional District Judge and others (2018 YLR 759).

4. Learned counsel for respondents No.3 to 5 submitted that following the lawful transfer of ownership of Plot No.34, I&T Center, Sector G-9/4, Islamabad, vide letter No. CDA/EM-47(34)/1M/781/690 dated 14.03.2024, from the names of Shamir Khan, Mst. Husan Ara Ali Bahadur (wife of Ali Bahadur), Asad Ali, and Saeed Ahmad to respondents No.3 to 5, the petitioner continued to remain in possession of the premises. Subsequently, the petitioner voluntarily deposited the rent for the month of July, 2024, in favour of respondents No.3 to 5, who are the new and current landlords. This act of rent payment, being voluntary and unconditional, constitutes attornment and acknowledgment of the change in ownership by the petitioner. It was further submitted that second legal notice dated 28th March, 2024, on behalf of respondents No. 3 to 5 for eviction from property

at Plot No.34, I&T Centre, Sector G-9/4, Islamabad was sent to the occupant namely Mr. Muhammad Naveed Awan, Top Floor, Plot #34, I&T, Centre, Sector G-9/4, Islamabad. It was also submitted that the petitioner was intimated through TCS, but instead of receiving the notice, he refused to receive the same. In this behalf, he placed reliance upon the judgment of this Court in case titled as "Muhammad Iqbal Vs. Learned Rent Controller, Islamabad-West, etc. (W.P No.4135-2021), & Waqar Zafar Bakhtawari and 6 others Vs. Haji Mazhar Hussain Shah and others (PLD 2018 SC 81).

5. Learned counsel for the petitioner, while exercising his right of rebuttal, submitted that the relationship of landlord and tenant has been specifically denied by the petitioner. It was further argued that no statutory or legal notice was ever served upon the petitioner by the respondent(s) requiring him to vacate the premises in question.

6. I have heard the arguments of learned counsels for the parties and meticulously perused the record with their able assistance.

7. The record reflects that the instant petition was admitted by this Court primarily on the basis of an unequivocal undertaking furnished by the learned counsel for the petitioner, whereby he undertook to ensure the peaceful vacation and handover of the demised premises to respondents No. 3 to 5 within a period of four months from 24.10.2024. The relevant portion of the undertaking, recorded during the course of arguments, is reproduced hereunder for ready reference.

"Learned counsel for the petitioner, after seeking instructions from the petitioner, has unequivocally undertaken on behalf of the petitioner that the rented premises (i.e. Block No.34, I&T Center, Sector G-9/4 Islamabad/Hotel/Hostel on the 1st and 2nd Floor) shall be vacated and peaceful possession of the same shall be handed over to the landlords (respondents No.3 to 5), within a period of four months from today positively".

8. Furthermore, the record further reveals that the said undertaking was reiterated by this Court vide order dated 29.11.2025, the operative part of which is reproduced below:

"On 24.10.2024, this Court was given an undertaking by the petitioner that he would vacate the rented premises by 24.02.2025. It was on the basis of the said undertaking that this Court issued notice to the landlords and passed an interim order."

9. Once such a categorical undertaking has been extended before the Court by learned counsel for the petitioner, and the issuance of notices was predicated upon said assurance, the petitioner and his counsel stand estopped from resiling from their commitment. It is a trite principle of law that an undertaking recorded by the Court carries the force of an order, and breach thereof may entail penal consequences, including proceedings for contempt of court.

10. Black's Law Dictionary (11th ed.) Definition of "Undertaking". A promise, pledge, and engagement. In this context the definition of "undertaking" as provided in Black's Law Dictionary (8th ed.) is of significant legal consequence, as it aligns with the judicial interpretation that such a commitment made before a court is not a mere procedural formality but a binding assurance carrying the force of a court order, once a party, through counsel, gives an unequivocal undertaking to the court such as to vacate rented premises within a specified period the undertaking transforms into an enforceable obligation. Any breach of such a solemn pledge not only offends the dignity of the court but also has coercive consequences.

11. Adverting to the merits of the case, it is an admitted position that the petitioner originally entered the demised premises as a tenant under the

previous landlord. Upon the transfer of title, the private respondents, being successors-in-interest, stepped into the shoes of the original landlord. It is a settled proposition of law that "once a tenant, always a tenant," and the mere transfer of ownership does not alter the status of the tenancy nor create a fresh tenancy in favour of the new landlord. Furthermore, it is the consistent view of the superior courts that a tenant is not entitled to challenge the title of the landlord unless and until he first surrenders possession of the tenanted premises.

12. With regard to the contention raised by the petitioner concerning the issuance of notice under Section 19 of the Islamabad Rent Restriction Ordinance, 2001, it is by now well-settled that the filing of an eviction petition itself constitutes sufficient notice to the tenant of the landlord's intention to terminate the tenancy. The institution of eviction proceedings, by necessary implication, serves as an express manifestation of the landlord's desire not to continue the tenancy any further. Reliance is placed in the case of Sher Jang V/S District Judge Islamabad and 4 others 2004 SCMR 1852.

13. The invocation of Article 199 of the Constitution, in the circumstances of the case, is wholly misconceived and not maintainable. Accordingly, the instant petition is devoid of merit and is hereby **dismissed**.

(KHADIM HUSSAIN SOOMRO)
JUDGE

Announced in open Court on 31.07.2025

JUDGE