

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Const. Petition No. S-288 of 2024
Mst. Yusra Rafi v. Qaid Johar Marvi & Ors.

Date	Order with signature(s) of Judge(s)
Hg: / Priority.	

- 1. For hearing of Misc. No.2641/2024
- 2. For hearing of main case.

20.11.2025.

Mr. Muhammad Kamran Mirza, Advocates for the Petitioner.
Mr. Ali Asfar Jan, Advocate for the Respondent.

Nisar Ahmed Bhanbhro, J. Through this order, I propose to decide the fate of the instant petition challenging the findings of the Court of the IInd Additional District & Sessions Judge (South), Karachi, in Rent Appeal No. 328/2023 *Mst. Yusra Rafi v. Muhammad Yousuf*, decided on 27.01.2024, as well as the judgment dated 13.10.2023 passed by the Rent Controller X (South), Karachi, in Rent Case No. 931/2019 *Qadir Johar Marvi v. Muhammad Yousuf*, whereby the rent case was allowed and the appeal filed by the petitioner was dismissed.

2. Learned counsel for the petitioner submits that the demised premises were originally owned by Mst. Maimona Bai, and the said premises had been rented out to Muhammad Yousuf. He further argues that during the pendency of the matter, the demised premises were purchased by the present petitioner, Yusra Rafi, from Muhammad Yousuf for a sale consideration of Rs. 20,50,000/- in the year 2010. He submits that no relationship of landlord and tenant existed between the parties. He further contends that the respondent/landlord’s claimed title was doubtful, as he was not a legal heir of the original owner, Mst. Maimona Bai. He prays that the findings of the courts below be set aside, as the same are whimsical and the result of non-reading and misreading of evidence. He further submits that the respondent/landlord failed to produce any record establishing his relationship as a tenant with the petitioner; therefore, the findings rendered are not sustainable in law.

3. Learned counsel for the respondents contends that the demised premises were owned by the respondent and had been rented out to the opponent, Mst. Yusra Rafi, who subsequently sublet the same to the petitioner. He argues that the case was admittedly filed against the legal heirs of Mst. Yusra Rafi, and since Mst. Yusra Rafi claimed ownership of the demised premises on the basis of a purchase/sale transaction, her application under Order I Rule 10 CPC was allowed, and she was impleaded as opponent No. 7, whereafter an amended application was filed. It is further contended that default in payment of rent and

utility bills since 2012 was established; therefore, the ejectment application was rightly allowed. He also submits that the respondent, being a legal heir of the original owner, could validly assume the status of landlord upon her death, and that the respondent's ownership was never disputed before any forum.

4. Heard argument and perused the material available on record.

5. From a perusal of the record, it transpires that the respondent was the owner of the demised premises, which had been rented out to respondent No. 2, who continued to pay rent until 20.08.2011. After his death, the legal heirs of the opponent failed to make payment and defaulted from January 2012 onwards. Upon the demise of the original owner, a notice was sent to respondent No. 2 for payment of monthly rent and utility bills, but they failed, therefore, the rent application was filed. During the rent proceedings, the petitioner moved an application under Order I Rule 10 CPC, claiming ownership of the property by virtue of a sale transaction with one Muhammad Yousuf. The petitioner appeared in the witness box through her attorney, Hammad Ahmed. In reply to a question, the attorney stated that he could not say whether it was mentioned in the written statement and affidavit-in-evidence that opponent No. 7 had purchased the premises from Mst. Maimona Bai. The sale documents on the basis of which the petitioner claim ownership were executed between Ferozuddin and one Kamran Rafi, and the attorney admitted in cross-examination that they had been paying Rs. 2,360/- per month to one Hussain. This admission on the part of the petitioner, coupled with the evidence duly discussed by the courts below, reveals that the petitioner was not the owner of the demised premises but was attempting to grope in the dark and usurp the property by taking advantage of the death of the original owner, Maimona Bai.

6. There are concurrent findings of fact by the courts below, and learned counsel has failed to point out any error of misreading or non-reading of evidence, or any other infirmity in the impugned judgments warranting interference by this Court. In view of the above discussion, this petition is devoid of merit and is accordingly dismissed, with no order as to costs.

7. A copy of this order shall be sent to IInd Additional District & Sessions Judge (South) for information.

JUDGE