

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No.S-08/2010

DATE	ORDER WITH SIGNATURE(S) OF JUDGE(S)
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Before: Mr. Justice Nazar Akbar

Petitioner	:	Muhammad Hussain through Mr. Javed Haleem, Advocate
Respondent No.1	:	Vth Addl. District Judge Karachi (South)
Respondent No.2	:	Mst. Saeeda Khatoon wife of Iqbal, through Sheikh Muhammad Waseem, Advocate
Date of hearing	:	30.11.2015

Nazar Akbar, J. This constitutional petition is arising out of the findings of Rent Controller in Rent Case No.1067/2002 upheld by the Vth Additional District Judge, South, Karachi in FRA No.199/2005 whereby the petitioner was directed to vacate the premises bearing Flat No.3, 3rd floor, plot No.RB-6/36, Yousuf Street, Ghari Khata, Aram Bagh, Karachi on the ground of personal bonafide need of Respondent No.2 and default in payment of rent.

2. The facts leading to this petition, in brief, are that Respondent No.2 filed Rent Application No.1067/2002 in the Court of Xth Rent Controller South, Karachi against the petitioner on the grounds of personal need default and addition and alteration in the tenement. The Rent Controller by order dated **26.08.2005** allowed the ejectment only on the ground of personal need and default in payment of rent, therefore, directed the petitioner to vacate the premises within 30 days. The petitioner preferred First Rent Appeal No.199/2005. The learned Appellate Court maintained the order of the Rent Controller and dismissed his appeal by order dated **04.11.2009**. Consequently, the instant petition.

3. I have heard learned counsel for the petitioner and Respondent No.2 / landlord. The heavy burden of contesting concurrent findings of the facts on two

counts against the petitioner has not been discharged by the learned counsel. The two impugned orders were well reasoned and supported by the evidence which included even admission of the petitioner that he had been depositing rent in MRC No.72/1987 despite the knowledge that the landlord has died and he even know the legal heirs of landlord. This admission has been categorically mentioned by the learned Appellate Court in the order while upholding the findings of the Rent Controller on the point of default against the petitioner. The counsel for the petitioner has not been able to refer to his own evidence to dislodge burden of payment of rent to Respondent No.2 in time. Similarly on the point of personal bonafide need the evidence which has been discussed in detailed by the learned Rent Controller in the ejectment order has gone un-rebutted. The learned Rent Controller has also observed that Respondent No.2 is living with her children in a rented premises not only that the petitioner himself is not living in the tenement for the last three years. Even this claim has not been contested in the memo of petition. He has not disputed that the findings of the Rent Controller that the petitioner is not in possession of the property for the last three years.

In view of the above factual evidence on record and failure of the petitioner to show any misreading and non-reading of evidence the findings of the two Courts below cannot be interfered. Consequently, this petition is dismissed, alongwith all the applications pending un-contested since 2010.

JUDGE

Karachi
Dated:20.01.2016

SM