

IN THE HIGH COURT OF SINDH AT KARACHI

**C.P No.S-2341 of 2018**

**Present: Mr. Justice Nazar Akbar**

Petitioner : Akhlaq Ahmed,  
Through Mr. Noor Muhammad Dayo,  
advocate.

Respondent No.1 : Khursheed Ahmed Khan

Respondent No.2 : District and Sessions Judge, Karachi-South.  
(Nemo)

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Date of hearing : **15.11.2018**

Date of decision : **14.12.2018**

**J U D G M E N T**

**NAZAR AKBAR, J:-** The Petitioner through this constitutional petition has challenged the findings of Rent Controller dated **10.03.2018** in Rent Case **No.636/2017** and affirmed by District & Sessions Judge (South) Karachi by order dated **20.10.2018** in F.R.A. **No.122/2018** whereby the Petitioner was directed to vacate Flat No.C-12, Second Floor, Boat View Apartments, measuring 1415 sq. feet, Block-5, KDA, Scheme No.5, Clifton, Karachi (hereinafter the tenement).

2. Brief facts of the case are that Respondent No.1 filed rent application under Section 15 of the Sindh Rented Premises Ordinance, 1979 (SRPO, 1979) for eviction of the petitioner from the tenement on the grounds that (i) petitioner has defaulted in payment of rent; and (ii) the tenement required by him for his business office under personal bonafide need for himself and for his family. The

respondent explained his need that he has two sons and for one of them has planned to move to the tenement.

3. The Petitioner was duly served with eviction proceedings and he filed written statement wherein he denied not only the claim of the default and personal need but also relationship of landlord and tenant.

4. After recording evidence and hearing learned counsel for the parties, learned Rent Controller has allowed the rent case filed by respondent No.1 by order dated **10.03.2018** and directed the petitioner to vacate the tenement and hand over its vacant and peaceful possession to the application within 60 days. The order of Rent Controller dated **10.03.2018** was challenged by petitioner in F.R.A. **No.122/2018** before District Judge South Karachi, which was also dismissed by the impugned order dated **20.10.2018**. The petitioner has challenged the concurrent findings through the instant petition.

5. I have heard the arguments and perused the record.

6. The petitioner was nonsuited on all three grounds taken by respondent before the Rent Controller. Respondent No.1 has sought ejectment on the ground of default and personal need and the petitioner has denied the relationship of landlord and tenant. The petitioner's counsel after going through the evidence and the impugned judgments was unable to refer to any misreading and non-reading of evidence by the Rent Controller as well as by the appellate Court while upholding the findings of the learned Rent Controller on all the three issues. It is an admitted position from the record that the petitioner himself has entered into agreement of tenancy on the

change of ownership of the property with the Respondent and therefore, there was no justification for the petitioner even to raise controversy of relationship of landlord and tenant. The contention of the learned counsel for the petitioner before Rent Controller that he has spent Rs.14,18,760/- on the repair or renovation of the tenement in the year 2009 with the permission of representative of the previous owner as defense to adjust the same in the rent is obviously a frivolous plea which could not had been accepted by the Rent Controller and appellate Court. The premises on rent is hardly on the monthly rent of Rs.25,000/- per month was not supposed to be allowed by even the previous owner to spend such a huge amount of Rs.14,18,760/- for renovation of the flat in question. The other evidence of personal need is also impeachable since the petitioner has not been able to show malafide of respondent in claim of personal need.

7. There was no misreading and non-reading of the evidence. The Courts have rightly ordered eviction of the petitioner from the premises in question, therefore, this petition is dismissed with direction to the petitioner to vacate the premises within 30 days' time. On completion of 30 days from the date of this order, if petitioner fails to vacate the premises the executing Court shall issue writ of possession with police aid and with permission to break open the lock without notice to the petitioner.

**J U D G E**

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