

**ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

C.P.No.S- 45 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
-------------	--------------------------------------

1. For hearing of MA 97/2019.
2. For hearing of main case.

06.03.2019.

Mr. Roshan Ali Azeem Mallah, Advocate for petitioner.

=

1&2. Through this petition, the petitioner has challenged the impugned judgment dated 24.12.2018 passed by learned VIIIth Additional District Judge, Hyderabad in F.R.A. No.69 of 2018, whereby he dismissed the F.R.A and maintained the ejectment judgment dated 10.08.2018 passed by learned 1st Senior Civil Judge & Rent Controller, Hyderabad, whereby the rent application filed by respondents No.1 to 4 was allowed.

Learned counsel for the petitioner contended that the petitioner being tenant of the respondents No.1 to 4 was paying rent and utility charges as per rent agreement; that both the courts below failed to consider that the respondents wanted to increase the rent and on refusal of the petitioner they refused to receive the rent and filed R.A. No.63/2015 which was allowed; that the need of personal bonafide use was engineered to make out a good prima facie case for eviction of the petitioner; that both the impugned judgments are in conflict with documentary evidence; that both the courts below have failed to consider that if the petitioner was evicted from the rented premises, his established business will be ruined and his entire family will suffer a heavy loss. Lastly, he has prayed for setting aside of the impugned judgments and to allow this petition.

I have heard learned counsel and perused the entire material available on record.

Admittedly, the petitioner was tenant of the respondents and the respondents were in need of personal bonafide of the subject property hence they moved the ejectment application also on the point of default in the payment of rent which was allowed. Against which, the petitioner filed F.R.A. which also met with the same fate. I have perused both the judgments of Courts below which do not suffer from any material illegality or irregularity and detailed judgments have been passed by both the Courts below by discussing each and every aspect of the case. It also appeared from the record that the petitioner made default in payment of rent. It has also been mentioned in Para-16 of the order of Rent Controller that though the opponent has claimed that he has regularly paid the rent in court but when such record was called from the concerned Nazir regarding R.C. No.63 of 2015, it revealed a separate story and the last rent issued by opponent bears the date of 6.1.2015 wherein the rent of December 2014 was paid at the rate of Rs.6600/- and it can safely assumed that last rent was paid on 6.1.2015. Admittedly, the petitioner/opponent was bound to pay the enhanced rent but he failed to do so. Though the petitioner claimed that he deposited the rent through money order but as per judgment of the appellate Court no proof in this regard has been brought on record by the petitioner nor he examined the officials of post office to whom the respondents refused to receive the alleged money order.

This Constitutional Petition is filed against the concurrent findings of the Courts below in Rent proceedings, in which circumstances, it has to critically pass through the test laid down by the judgment rendered by Honourable Supreme Court in the case of Muhammad Lehrasab Khan v. Mst. Aqeel-un-Nisa and 5 others (**2001 SCMR 338**) as well as in the cases reported as **PLD 2018 SC 81, 201 4 YLR 2331** and **2016 CLC 1850**.

A review of the judgments passed by the Courts below shows no illegality or material irregularity, of which this Court could have taken cognizance of under the Constitutional jurisdiction.

In the given circumstances where no mandate is available in the Constitution to openly interfere with the rent proceedings, this petition is accordingly dismissed as being meritless alongwith pending application.

JUDGE

Tufail/PA