

IN THE HIGH COURT OF SINDH, KARACHI

Constt. Petition No. **S-1064/2018**

Petitioner : Rehan Mansoor
Through Mr. Shaikh Ikram Aziz,
advocate.

Versus

Respondent No.1 : Mst. Anjum Mumtaz
(nemo)

Respondent No.2 : IXth Addl. District Judge, (East)
Karachi.

Respondent No.3 : IVth Rent Controller, (East) Karachi.

Date of hearing : 07.11.2018

Date of Judgment : 15.11.2018

J U D G M E N T

Nazar Akbar, J.- The petitioner through this constitution petition has challenged concurrent findings, whereby IVth Rent Controller Karachi (East) Karachi in Rent Case No.248/2014 has been pleased to order eviction of the petitioner from Flat No. **05** on **1st** Floor of the building situated on Plot No.7/33, Dehli Mercantile Housing Society, Karachi, (hereinafter referred the “said tenement”) by judgment dated **11.05.2017** and the learned IXth Additional District Judge East, Karachi by judgment dated **24.4.2018** in F.R.A. No.127/2017 has been pleased to endorse the findings of the Rent Controller while dismissing the appeal filed by the petitioner.

2. Precisely, the facts of the case are that the petitioner is tenant in respect of Flat No. **05** on **1st** Floor of the said building

(hereinafter the said tenement) at the monthly rent of Rs.5100/- payable after expiry of each calendar month. It is averred that respondent No.1 requires the premises in question in good faith for the occupation of her married son namely Iftikhar Ahmed who wants to live in 1st Floor of the said building in the premises in question. According to respondent No.1, the subject premises is suitable to meet needs of his son and presently his son is living in joint family and the respondent wants to shift her son to the said flat due to family circumstances and as such the subject premises is required for personal need in good faith. In rent case it was also alleged that the petitioner paid the rent upto the month of October, 2013 but thereafter the petitioner has failed to pay the rent from November, 2013 upto date inspite of repeated demands made by the respondent through her rent collector and thus, petitioner has also committed willful default in payment of rent. The respondent therefore, filed rent case.

3. The petitioner contested the rent proceeding. In his written statement he denied the allegations leveled by the respondent in the ejectment application, however, the petitioner has admitted the relationship of landlady and tenant in between him and the respondent. It is averred by the petitioner that Respondent does not require the premises in good faith and alleged that through Rent Collector namely Sultan Ahmed respondent No.1 has demanded increase in the rent from Rs.5100/- to Rs.15000/- but the petitioner was agreeable to increase the rent only as per law, and refused the unlawful demand of respondent No.1. It is further averred that petitioner paid the rent regularly to the respondent's

Rent Collector upto October, 2013 and thereafter the petitioner also requested the respondent to take the rent for the month of November, 2013 and on refusal the petitioner first sent the rent through money order but the Rent Collector refused to collect the rent and therefore, the petitioner filed **MRC No.11/2014** in the Court of learned IIIrd Rent Controller Karachi East and since then he is paying the rent regularly in the Court.

5. Learned Rent Controller by order dated **11.05.2017** allowed eviction of the petitioner on the ground of personal bonafide need for her married son and directed the petitioner to vacate the said tenement. The petitioner preferred First Rent Appeal and the same was also dismissed on **24.04.2018** by the appellate Court. The petitioner against the concurrent findings has filed the instant petition.

6. I have heard learned counsel for the petitioner and perused the record.

7. Learned counsel for the petitioner has raised only one grievance against the dismissal of rent case as well as the dismissal of First Rent Appeal that the petitioner has filed an application under **Section 20(1)(c)** of SRPO, 1979 for inspection of the various premises owned by the Respondent including the premises in occupation of the petitioner, which was not allowed. He insisted that the flat in possession of the petitioner was not in good state and therefore, it was not suitable for the Respondent. The petitioner has not been able to point out that how the choice of the petitioner to shift her married son Iftikhar Ahmed from the house in which he is living jointly with other family members

could be unjustified. The inspection of the premises was not mandatory for the Court for deciding the personal need of the landlord for his / her spouse or children. The personal need established before the two Courts below on the basis of evidence is unimpeachable; therefore, this constitution petition is dismissed. Petitioner is directed to vacate the demised premises within 90 days. Copy of the order may be sent to the Court of Rent Controller No.IV East, Karachi.

SM

JUDGE