

**IN THE HIGH COURT OF SINDH, AT
KARACHI.**

Const Petition No. S-281/2014

Petitioner : Aftab Khalil Shaikh, through
Mr. Abdul Wajid Wyne, Advocate.

Respondent No.1 : M/s. United Bank Limited, through
Mr. Abdul Haleem Siddiqui, Advocate.

Date of hearing : 17.05.2017.

Date of Judgment :

J U D G M E N T

YOUSUF ALI SAYEED, J:- In terms of this Petition under Article 199 of the Constitution, the Petitioner has impugned the Order dated 04.02.2014 made by the Vth Additional District Judge, Karachi (South) in F.R.A No.306/2012, whereby the learned ADJ dismissed the FRA and upheld the Order dated 07.11.2012 made by the learned VIIth Rent Controller, Karachi (South) in respect of premises bearing No.2, Plot No.5, Street No. SRI-1, constructed on Plot No. SR-1/4, Serai Quarters, Karachi (the “**Subject Premises**”) in Rent Case No.1137/2008 to the extent of the Respondent’s claim to possession thereof on the ground of personal need.

2. The only point raised on behalf of the Petitioner during the course of arguments in these proceedings is that the issue of personal need has been wrongly decided by the Court below.

3. In this regard, learned counsel for the Petitioner pointed out that in its Application under S.15 of the Sindh Rented Premises Ordinance 1979, the Respondent No.1 had pleaded that after its privatization, the incoming management had introduced a number of new schemes that had yielded fresh departments, for which suitable premises were required. It was further pleaded that the Subject Premises were required for the Sales Department and Consumer Collection Department as the Respondent owned no other alternate premises in the area. Learned counsel submitted that the case of personal need, as set up in the pleadings, had been allowed by the learned Rent Controller and upheld by the Appellate Court whilst ignoring the fact brought on record during the course of evidence that larger open plots were available with the Respondent No.1 on both sides of the Subject Premises, which could be used by the Respondent for the purpose of constructing suitable premises for its use rather than disturbing the possession of the Petitioner, and that this state of affairs belied the basis of the Respondent's claim of bona fide personal need.

4. Having examined the Impugned Order and considered the submissions made by learned counsel, it is apparent that the case of the Petitioner is baseless and misconceived, as it is well settled that the choice lies with the landlord to select any tenement for meeting personal need and it does not lie in the mouth of the tenant to give advice as to alternate accommodation. Reference may be made to the judgment of the Honourable Supreme Court in the case reported as *Pakistan Institute of International Affairs v. Naveed Merchant & others* 2012 SCMR 1498.

5. Furthermore, the plea taken by the Petitioner that the Respondent No.1 ought to utilize certain open plots to construct suitable premises rather than taking possession of the built-up premises presently in possession of the Petitioner is even otherwise completely untenable, as a landlord cannot be required to go to such lengths in order to accommodate his tenant.

6. In view of the foregoing, this Petition is hereby dismissed with no order as to costs.

JUDGE

Karachi.

Dated:_____