

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
C.P.No.S- 649 of 2012

DATE	ORDER WITH SIGNATURE OF JUDGE
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- 1. For orders on office objection.
- 2. For hearing of M.A- 7799 of 2012.
- 3. For hearing of main case.

22.01.2021

Mr. Muhammad Arshad S. Pathan, Advocate for Petitioners.

Mr. Suresh Kumar, Advocate for respondent No.1.
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Through this constitutional petition, Petitioners assailed the legality and propriety of the order dated 31.08.2012, passed by the learned Vth Additional District Judge, Hyderabad in First Rent Appeal No.37 of 2011 (re: M/s Farooque & Co. and another V. Jitendra), whereby the learned appellate Court dismissed the said appeal and maintained the judgment dated 26.05.2011, passed by the learned Rent Controller / Ist. Senior Civil Judge, Hyderabad, whereby the ejectment application u/s 15 of the Sindh Rented Premises Ordinance, 1979 (re: Jitendra V M/s. Farooq and Co. and another) was allowed.

2. 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 of Pakistan 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 **Waqar Zafar Bakhtawari and 6 others v. Haji Mazhar Hussain Shah and others** (PLD 2018 SC 81), **Mst. Samina Zaheer Abbas v. Hassan S. Akhtar and 3 others** (2014 YLR 2331) and **Pakistan State Oil Company (Pvt.) Ltd. v. Zulekha Khanum and 6 others** (2016 CLC 1850).

A review of the judgment / order passed by the Courts below shows that factual controversy with regard to depositing of rent by the applicants in

Court is involved; so also no misreading or non-reading, if any, committed by the both Courts below while passing the impugned judgment / order has been pointed by the learned counsel for Petitioners hence 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. Let petitioners shall vacate the subject demised premises and handover its vacant possession to the respondent No.1 within a period of 30 days; otherwise, the trial / executing Court shall proceed in accordance with law after expiry of stipulated period.

JUDGE

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