

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

BEFORE:  
Mr. Justice Muhammad Shafi Siddiqui

C.P. No.S-1028 of 2019

Raees Baig (late) through his legal heirs & Others

Versus

Hameed Baig and others

Date of Hearing:	20.04.2021
Appellant:	M/s. Raja Masood Ahmed Qazi and Ubedullah A. Abro, advocates
Respondent No.1:	Mr. Ali Gohar Masroof, advocate

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

**Muhammad Shafi Siddiqui, J.-** This petition is filed against the concurrent findings of two courts below. This being a second round of litigation as in the earlier round the case was remanded by this Court vide order dated 02.05.2018 passed in C.P. No.86/2006. There was an issue of relationship of landlord and tenant, however, title of the respondent was seriously disputed and that there was no relationship of landlord and tenant. In the earlier round also concurrent findings were reached by the two courts below that there was relationship of landlord and tenant and since the relationship was denied, therefore, undoubtedly the default was held in favour of the respondent and against the petitioner. The case was remanded to the Rent Controller for a de novo findings of the relationship of the landlord and tenant and also to summon the officer of KDA for submitting the relevant documents that may lead to a conclusive title of the respondent. Since throughout in the first round of litigation the petitioner has not filed affidavit-in-evidence, he was directed to file it within two weeks of the receipt the case by rent controller and on failure his side was ordered to be closed. This being the gist of earlier round of litigation and despite this remand

the petitioner has not filed any affidavit-in-evidence to support the pleadings of the written statement.

While the case was remanded, the Officer from KDA Rashid Kamal Khan was summoned and he produced some relevant documents. He has made a statement that the property in question was allotted in the name of Hameed Baig son of Aziz Baig i.e. deceased respondent vide allotment of 1960 and the lease certificate was issued on 14.05.1983. On 31.05.1983, Hameed Baig submitted an application form for issuance of CTC of the documents of the said plot but it was not finalized due to the objection of one Muhammad Zahid, advocate, raised on behalf of his client Raees Baig. The witness also produced the allotment of said built up quarter on 18.10.1960 followed by possession letter dated 21.11.1960 and lease/transfer/mutation on 14.05.1983.

The petitioner in the earlier round of litigation has made an attempt that in the absence of any title of the property in question the solitary statement of the cross-examination of the applicant/respondent should not be a decisive factor. Rightly so and for that matter the case was remanded to the trial court/Rent Controller so that the petitioners may support their pleadings on the strength of their evidence but they have failed. None of the petitioners stood in the witness box to rebut the contents of the application or the affidavit/statement made on oath and the cross-examination as observed earlier. In the cross-examination this burden of proving the relationship was diluted by the petitioner/opponent himself by raising a question that the rent of the demise premises was paid upto December 2002, which suggestion was denied by landlord/respondent. The counsel also inquired the applicant/respondent as to rent of which period was paid, which was replied that the rent was paid for the years 1966 to 1975. Thus in absence of any evidence on the part of Petitioner and on the strength of the affidavit-in-evidence of the respondent and the cross-examination

conducted, the two courts below held the relationship of landlord and tenant in the second round as well. The petitioner was given an opportunity when in the first round it was remanded to the trial court but he failed to make any statement on oath or to file any application that such question as referred above were in fact wrongly or incorrectly recorded. The dispute of title as raised by the petitioner is also resolved though for the purposes of relationship it is not required yet the allotment and the consequential documents were produced by the witness from the KDA. Hence against the current findings of facts when the two courts below reached to a conclusion no interference is required.

These are reasons of short order dated 20.04.2021 whereby the petition was dismissed.

**J U D G E**

*Gulsher*