

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**C.P.No.S-498 of 2019**

Muhammad Rafique ..... Petitioner

Vs.

Mst. Fatima Bibi & others ..... Respondents

Mr. Muhammad Ibrahim Azmi, advocate for Petitioner.

Mr. Muhammad Ashfaque, advocate for Respondents.

**09.09.2024.**

**ORDER**

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**MUHAMMAD IQBAL KALHORO J:** Respondents filed a rent case against petitioner for his eviction in respect of Shop No.2 measuring 300 Sq. Ft. in the property bearing Plot No.SR-09/13 Tayyabi Road, Karachi on the ground of default and personal bonafide need. Petitioner contested the claim of the respondents and filed his written reply stating that the respondents had so many other shops in the same market which have been recently vacated by the tenants, and which he could use for personal bonafide use. His entire claim is based on malafide and nothing more.

2. The rent case was dismissed by the Rent Controller vide judgment dated 31.07.2017. The respondents filed FRA No.476/2017 before learned Additional District judge, Karachi South, who vide impugned judgment dated 09.02.2019 has decided the same in favour of the respondents directing the petitioner to vacate the shop within 60 days, hence this petition.

3. Learned counsel for petitioner submits that initially the respondents had filed a case u/s 8 of Sindh Rented Premises Ordinance, 1979 (SRPO,1979) for fixation of fair rent but failed to get any relief from the court. The respondents have failed to show that respondent No.3 is working with his younger brother in a small rented shop, which is a ground for getting vacation of shop from the petitioner; that shops No.1, 5, 8 and 12 recently have been got vacated by the respondents which are situated in the same building which they can use for their personal use; that appellate court has allowed the appeal only on the basis of personal bonafide need which is not made out from the record.

4. I have heard the parties and perused the material available on record. It is settled principle of law that if landlord has other shops in the same building, he can still choose a particular shop for his personal bonafide use and there is no tether in law on his right in this respect. The judgment of the appellate court shows that respondents were successful in establishing that respondent No.3 is working with his younger brother in a small rented shop which is not sufficient of his need, and that he was in

need of demised premises for doing work of selling papers independently. The learned appellate court has further observed that the claim of the petitioner that recently respondents have got possession of four shops in the same premises has not been established from any record and that the same assertion is based on simple assumption and hypothesis. Learned appellate court has referred to various case laws, the ratio of which describe that selection of business is sole prerogative of the landlord so also choice of the shops if he has more than one, therefore, no restriction can be imposed upon the landlord to choose a particular shop for his personal use.

5. After going through the ratio of the said judgments and on hearing of the parties and going through the facts, I am of the views that petitioner has not succeeded in making out a case for interference in the constitutional jurisdiction which has a limited scope and can be invoked only when there is some apparent illegality in the judgment of fora below. It is clear that respondents have successfully established their case on the ground of personal bonafide need and there are no circumstances to justify a different view than one taken by the appellate court in this respect. This being the position, I do not find any merits in the instant petition and accordingly dismiss the same.

The petition stands disposed of.

Judge

A.K.