

IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.S-320 of 2024

M/s. Gizri Corporation Pvt. Ltd. Petitioner

Versus

Pakistan Industrial Development Corporation Pvt. Ltd. & another Respondents

Date of Hearing : 10.03.2025

Date of announcement of judgment : 13.03.2025

Petitioner through Mr. Muhammad Khan, Advocate.

Respondents through : Mr. Asim Iqbal, Advocate for the Respondent No.1 a/w M/s. Farmanullah Khan and Syeda Maryam, Advocates,

Mr. Irshad Ahmed Shaikh, AAG.

ORDER

Muhammad Jaffer Raza, J:- The instant petition has impugned the Judgment and Decree dated 26.02.2024 (“**Impugned Judgment**”) passed in FRA No.09/2024.

Brief facts of the instant petition can be summarised as follows: -

1. The Respondent No.1 filed Rent application No.844/2022 under Section 15 (2) (vii) of the Sindh Rented Premises Ordinance, 1979 (“**SRPO**”) on the sole ground of personal bona fide need. The said Rent Application was allowed vide order dated 30.11.2023. Thereafter, the Petitioner filed FRA No.09/2024 under Section 21 of the SRPO and the same was dismissed vide Impugned Judgment and Decree dated 26.02.2024. It has been contended on behalf of the learned counsel for the Petitioner that the Petitioner has been in possession of the tenement for approximately 40 years and has regularly been paying the rent to the Respondent. It is further stated by the learned counsel that the Tenancy Agreements were mutually renewed from time to time and there is no default on part of the

Petitioner and it was only the Respondent who arbitrarily did not receive the rent for which the Petitioner had no option but to file MRC No.464/2022.

2. It was however stated by the learned counsel that rent application filed by Respondent was on the sole ground of personal bona fide need and the aspect highlighted in the paragraph above need not require any further deliberation. Learned counsel for the Petitioner has submitted that the case against the Petitioner has been filed malafidely and the tenement is not required by the Respondent in good faith. Learned counsel further stated that the Respondent No.1 has 14 tenants and has only issued notices to two tenants which reflect that the requirement is not bona fide and the Petitioner for reasons best known to Respondent No.1, is being specifically targeted. It has also been contended by the learned counsel that the requirement of the Respondent No.1 according to his own statement is approximately 6000 sq. ft., whereas, Petitioner is in possession of only 2300 sq. ft., therefore, even if the Petitioner is ejected from the tenement in question, it would still not satisfy the alleged bona fide of the Respondent No.1.

3. It has also been pointed out by the learned counsel that the Respondent No.1 already has significant number of properties in which the employees of Respondent No.1 and its subsidiary companies may be accommodated. Lastly, learned counsel has submitted that the Respondent No1 had filed an application under Section 8 of the SRPO for fair rent against other tenants and this ground is enough to extinguish the myth of personal bona fide need. Learned counsel in this regard has relied upon the following judgments: -

- i. *Naveed Merchant v. Pakistan Institute of International Affairs*¹
- ii. *Muhammad Younus v. Additional District Judge (VII), Karachi (South)*²

¹ PLD 2012 Sindh 23

² 2018 YLR 1284

4. Conversely, learned counsel for the Respondent No.1 has vehemently argued that the relationship of tenant and landlord has been admitted by the parties and the learned counsel to establish the personal bona fide need of the Respondent No.1 has taken me through the following documents. The same were filed along-with the objections to the instant petition and it is admitted that the same were exhibited before the Learned Rent Controller.

Sr.	Document name	Date	Annexure
1.	Tenancy Agreement	15.07.20198	R/1
2.	Memorandum	23.12.2019	R/2
3.	Scheme of Amalgamation		R/3
4.	SECP Letter	08.11.2021	R/4
5.	Notification of SECP	15.12.2021	R/5
6.	Eviction Notice	20.12.2021	R/6
7.	Termination of Tenancy	01.12.2021	R/7
8.	List of Employees		R/8

5. It has been argued in the light of the documents above identified by the learned counsel for the Respondent No.1 that the said Respondent has satisfied his requirement for personal bona fide need and, therefore, the Petitioner may be ejected from the premises. The learned counsel has more specifically relied on the list of employees (R/8) which according to him need to be accommodated in the tenement in question. Lastly, learned counsel for the Respondent No.1 has stated that in the light of the concurrent findings against the Petitioner, the same require no interference by this Court. He relied upon the following judgments: -

- i. **Shakeel Ahmed & another v. Muhammad Tariq Farogh³**
- ii. **Rabia Jamal v. Mst. Nargis Akhtar⁴**

6. I have heard learned counsel for the parties and perused the record. I have specifically asked the learned counsel for the Petitioner to identify parts of the cross-examination of Respondent No.1 in which, according to him, the plea of

³ 2010 SCMR 1925
⁴ C.P. No.S-495/2023 Order dated 21.07.2023

personal bona fide need has been shattered. Learned counsel in response read out the following part of the cross-examination: -

“There are 14 tenants in the rented premises building with different areas I do not know the build-up used are of the rented premises building. It is correct that as per Exb. A/8, five industries were approved for merger with applicant. present, National Industrial Park and Furniture Pakistan have been merged with applicant and remaining are under process. It is correct that I have not mentioned the shifting of office of M/s. Furniture Pakistan at Rented Premises Building. I do not know whether the office of said Furniture Pakistan still exists at its previous place. The office of the National Industrial Park was situated at FTC Building. There were about 35 employees of National Industrial Park Company. It is correct that as per Notice Exb./13, the office premises of NIP was to be vacated on 31.01.2022. It is correct that office of NIP was vacated on 31.01.2022. The employees of the NIP have been given place at second floor of the rented premises. It is correct that as per Exb.A/6, the applicant issued termination notice to Opponent on 20.12.2021 and opponent was required to vacate the premises in three months. It is correct that said three months expired on 20.03.2022 It is correct applicant vacated the office from FTC first and then issued notice to the opponent. It is correct that I have not produced documentary proof of handing over and taking over of the FTC premises. It is correct that NIP office at FTC was consisting of an area of about 6112 square feet. It is correct that area of the office of the Gizri Corporation is about 1391 sq. ft. it is correct that area total got to be vacated from Gizri Corporation and Petroleum Packages is about 2300 sq. ft. and whereas the previous office was situated on 6112 square feet. It is correct Exb.A/14 does not show the area under occupation of the tenants mentioned therein. It is correct that applicant has not given vacation notice to other 12 tenants of the rented premises. It is incorrect to suggest that applicant wants to rent out the premises of the opponent to someone else. It is incorrect to suggest that premises of Opponent is not required for personal use of the applicant. It is correct that Exb.A/12 is not upon Letter Head of the Applicant Company. It is correct that Exb.A/12 does not show as to when the employees of NIP shifted to rented premises building. It is incorrect to suggest that strength of the NIP employees is not 35. It is incorrect to suggest that Exb. A/12 is a fake list. I do not know number of other buildings belonging to the Applicant. There is no any other property/office of NIP. It is incorrect to suggest that applicant filed this case on malafide.”

7. I have examined the cross-examination reproduced above and I disagree with the plea taken by the learned counsel for the Petitioner. The statement of the Respondent No.1/landlord has gone un rebutted; therefore, his personal need stands established. It is settled principle of law that once the landlord steps into the witness box and the plea of personal need is un rebutted, the ejectment application must be allowed under Section 15 of the SRPO. The following judgements advance the said proposition. The respective judgments and their relevant parts are reproduced below: -

- **Jehangir Rustom Kakalia vs. State Bank of Pakistan**⁵

“Rule laid down in the cases mentioned above is that on the issue of personal need, assertion or claim on oath by landlord if consistent with his averments in his application and not shaken in cross-examination, or disproved in rebuttal is sufficient to prove that need is bona fide.”

- **Wasim Ahmad Adenwalla vs. Shaikh Karim Riaz**⁶

“3. Leave was granted to consider the contention that the plea of personal requirement was not bona fide as a flat was available in the same premises which A the respondent did not occupy. The learned counsel for the appellant contended that the respondent is residing in a bungalow in Defence Housing Authority and that it is not imaginable that he would shift in a small house in a dingy and congested locality. He further contended that during the pendency of the case a portion of the house, which was an independent apartment, fell vacant, but the respondent did not occupy it and rented it out to the tenant. On the basis of these facts it is contended that the respondent's need is neither genuine nor bona fide. So far the first contention is concerned the learned counsel for the respondent stated that the respondent is residing in a rented house with his son in the Defence Housing Authority. The contention of the learned counsel for the appellant therefore does not hold water because firstly, the respondent is not residing in his own house, but is residing with his son who has rented out a house in that area, and secondly, in these circumstances if a landlord chooses to reside in his own house which may be in a locality which is much inferior and congested than the place where he is residing on rent, it cannot be termed as mala fide. It is the choice of the landlord to choose the house or the place where he wants to reside.”
(Emphasis added)

- **Rabia Jamal** (Supra)

“22. On the basis of the above decisions of the Supreme Court of Pakistan, it is apparent that once the landlord has adduced evidence by stating that they require the Said Tenement for their personal use in good faith, thereafter the burden shifts on the tenant to show either that the landlord did not require the Said Tenement for her personal use in good faith or that the Said Tenement could not be used by the landlord for the purpose as indicated in the Application under clause (vii) of Sub-Section (2) of Section 15 of the Sindh Rented Premises Ordinance, 1979. However, while raising such a contention it is not open to the tenant to allege mala fide on the part of the landlord by adducing evidence to state that the landlord had alternative premises or for that matter that the landlord had alternative premises that were more suitable for the needs of the landlord. This right to choose from amongst a host of properties that are available to a landlord as to which of those properties the landlord requires for their personal use vests solely with the landlord to the exclusion of all others.” (Emphasis added)

⁵ 1992 SCMR 1296

⁶ 1996 SCMR 1055

- **Shakeel Ahmed** (Supra)

“6. For seeking eviction of a tenant from the rented shop, the only requirement of law is the proof of his bona fide need by the landlord, which stands discharged the moment he appears in the witness box and makes such statement on oath or in the form of an affidavit-in-evidence as prescribed by law, if it remains unshattered in cross-examination and un-rebutted in the evidence adduced by the opposite party.”

8. The Judgment relied upon by the learned counsel for the Respondent No.1 do not advance his case. It is relevant to mention that both the judgment has been passed by the learned Single Judge of this Court and are distinguishable for the following reasons: -

- In the case of **Muhammad Younus** (supra) the tenement in question was not an industrial plot and the landlord in the case was unable to show how the premises can be utilized for an industrial purpose, which was the plea taken by the landlord in the rent application.
- In the case of **Naveed Merchant** (supra) it was held that the landlord who is already in occupation of another plot was to show that he requires additional space on the ground of insufficiency. Whilst I concur with the dicta laid down in the said judgement, the facts of the present petition reflect that the Respondent No.1 has established his need for additional space. The said need was specifically stated in the rent application and Affidavit in Evidence. The said plea remained unshattered during cross examination.

9. The argument of learned counsel for the Petitioner that the Respondent No.1 has several other properties in which the employees can be accommodated, does not find favour with me. It is the discretion of the landlord/owner to choose

the property he wishes to use and in that respect the tenant cannot dictate how and in what manner the owner should utilize his property.

10. Any adjudication on Section 15 (2) (vii) would be deficient without referring to the accountability mechanism provided for under Section 15-A of the SRPO.

The same is reproduced below: -

3["15-A"] 4[Where the land-lord, who has obtained the possession of a building under section 14 or premises under clause (vii) of section 15, relets the building or premises to any person other than the previous tenant or puts it to a use other than personal use within one year of such possession— (i) he shall be punishable with fine which shall not exceed one year's rent of the building of the premises, as the case may be, payable immediately before the possession was so obtained. (ii) The tenant who has been evicted may apply to the Controller for an order directing that he shall be restored to possession of the building or the premises, as the case may be, and the Controller shall make an order accordingly."]

11. The provision reproduced above was introduced by the legislature through the Sind Ordinance No. II of 1980 on January 21, 1980, to ensure that ejectment proceedings are not abused and due protection is given to the tenant in cases where the landlord/owner has misused the provisions of the Ordinance. An embargo of one year has been placed on the landlord in case the landlord wishes to rent out the property to another tenant. The protection given, which is also available to the present Petitioner, has been expounded in the following judgments, relevant parts of the same are reproduced: -

a) Mst. Zubeda through her son and General Attorney versus Muhammad Nadir.⁷

“Sufficient protection has been postulated in section 15-A of the Sindh Rented Premises Ordinance, 1979 which in the event of use of premises other than personal use not only postulates punishment for the landlord but also provide an effective mechanism for restoration of the possession to the evicted tenant before the Controller who would be entitled to exercise such authority on due consideration of the facts. Since the law provides an alternate and effective remedy to defuse the impression of the respondent, I think the apprehension is not well founded in the present state of circumstances.”

⁷ 1999 MLD 3011

b) Mst. Dilshad Bibi versus Ramzan Ali.⁸

“Keeping in view the only restriction imposed on the personal need by way of section 15-A of the SRPO as well as authorities quoted by the petitioner and the evidence brought on record the petitioner has proved that the shop is required for personal need to be used by her son and no doubt has been created in this respect. The apprehension of the respondent that the petitioner may let out the premises after obtaining the same to other tenant is covered by section 15-A of the SRPO which remove the above apprehension.”

For the foregoing reasons the instant petition is dismissed with no order as to costs.

Karachi

Dated

JUDGE

⁸ 2006 CLC 1853