

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P-S Nos.136 and 137 2021
[Muhammad Ilyas & another v. Mrs. Shama Liaquat & others]

Date	Order With Signature Of Judge
1.For order on office objection 2.For hg of MA No.1062/21 3.For hg of main case 10.09.2024.	Mr. Muhammad Amin, advocate for petitioners in both petitions. Mr. Mehmood Habibullah, advocate for respondents No. 1 & 2.

ORDER

MUHAMMAD IQBAL KALHORO, J:- Respondent No. 1, being landlord, filed a rent case against the petitioners in respect of Flat Nos.36 and 57 situated in building known as Afandi Manzil, constructed on a Plot No.10/7, Survey Sheet No.RB-7, measuring 1245 sq. yds., situated at Ramtalo Road, Rambagh Quarters, Karachi on the grounds of default and personal *bonafide* need. The rent case was decided against the petitioners; hence, they filed FRAs, which were heard and decided by Additional District Judge-XII, South-Karachi through impugned judgment upholding the findings of the Rent Controller.

2. Learned counsel for the petitioners submits that the respondent No.1 has failed to prove the grounds of default and personal *bonafide* need; that after receiving a notice under section 18 of the Sindh Rented Premises Ordinance, 1979 in the month of January 2014, the petitioners started paying rent through MRC, filed in the same month; hence, there is no default. The building is old one containing six stories, three stories are already in possession of respondent No. 1; hence, the personal *bonafide* need is not proved.

3. On the other hand, learned counsel for respondents No. 1 and 2 submits that there is no refusal on the part of respondents to receive the rent; hence, filing of MRC was not maintainable. Further, the building

has become old one and respondents want to demolish it and erect a new building instead.

4. I have heard the learned counsel for the parties and perused the material available on record. I do not find any merit in the cases of the petitioners, for both the courts below have attended to the facts and have recorded the findings at length supported by solid reasons. In Constitutional Petition, the concurrent findings cannot be upset unless it is shown that some gross negligency has been committed by the Courts below. Counsel for the petitioners has failed to show that after issuing a notice under section 18, petitioners ever approached respondents for tendering the rent or that respondents ever refused to receive the rent from the petitioners to justify filing of MRC. In absence of any refusal or tendering of the rent to the new landlord either personally or through post, filing of MRC was not maintainable and it will not save the petitioners from default, the ground on the basis of which, the rent case was filed and allowed.

5. I, therefore, do not see any merit in these petitions, dismiss the same, however, give three months' time from today to the petitioners to vacate the flats in question subject to payment of rent and all other dues and after three months, should vacate the flats in question without further notice.

The petitions are accordingly disposed of along with pending applications. Office is directed to place a copy of this order in connected petition.

JUDGE

HANIF

