

Judgment sheet

IN THE HIGH COURT OF SINDH AT KARACHI

Present

Mr. Justice Muhammad Jaffer Raza

Constitution Petition Nos. S – 314 & 315 of 2025

M/s. Industrial Printing Press Petitioner

Versus

Mst. Yasmeen Pervaiz and others Respondents

Date of hearing: 12.05.2025

Date of Judgment: 12.05.2025

Qazi Hifzur Rahman, advocate for the Petitioner.

Mr. S. Murtaza Haider, advocate for the Respondent.

J U D G E M E N T

Muhammad Jaffer Raza, J: - Through instant petition, the Petitioner has impugned order dated 28.02.2025 passed by the learned VIIth Additional District & Session Judge, Karachi South, in F.R.A. No.176 of 2024. The said FRA emanated from the order dated 25.05.2024 passed by the learned XVth Rent Controller, Karachi South, in Rent Case No.348/2018.

2. Learned counsel for the Petitioner has argued that both the judgments below are legally unsound and the ejectment applications ought not to have been allowed. He further argued that the execution proceedings on the basis of which possession was handed over to the Respondent was malafide as no notice of the execution application was ever served on him. He has further argued that the son for whom the property was required was never brought into the witness box and was never examined in this regard. He has prayed that even though the he has already parted with the possession of the tenement in question, this Court has the power to restore his possession after setting aside the concurrent findings of the courts below.

3. Conversely, learned counsel for the Respondent has argued that instant petition has become infructuous for the reasons that during pendency of the above-mentioned FRA(s), the possession of the subject tenement was handed over to the Respondent. In this regard, learned counsel for the Respondent has placed reliance on the cases of Wadho Akhara Trust, Karachi vs. Ghafooran and others¹ and Zaheer Ahmed and others vs. Muhammad Ahmed and others². Learned counsel otherwise on merits, has submitted that the case of personal bonafide need was made out. He has invited my attention to the respective rent application and more particularly paragraph No.5. The same is reproduced below:-

“5. That the Flat in question are required by one of the co-owner namely Mst. Farzana Saleem for his son namely Salman son of Saleem who intends to arrange marriage of her son and provide him separate accommodation for which the subject flat is required by the said co-owner for personal use and occupation of her son.”

4. Learned counsel has submitted that the ground for personal bonafide need was specifically pleaded in the rent application and the Affidavit-in-Evidence. He has thereafter invited my attention to the cross examination of the Respondent/applicant in the Rent Case and the learned counsel has correctly pointed out that not a single question pertaining to paragraph No.5 as reproduced above, was asked from the Petitioner.

5. It is a settled principle of law that if the ground of personal bonafide need was un rebutted and unshaken the ejectment proceedings must follow. Reliance in this regard is placed on Shakeel Ahmed & another v. Muhammad Tariq Farogh³. Even otherwise, the instant petitions have become infructuous for the reason that the Petitioner has already parted with the possession of the tenement in question. For the aforesaid reasons, both the petitions stand dismissed with no orders as to cost.

Judge

Nadeem

¹ 1993 SCMR 2360

² 2003 CLC 414

³ 2010 SCMR 1925