

IN THE HIGH COURT OF SINDH KARACHI

**Const. Petition No. S-297 of 2026**

(M/s. Phipson & Company (Pvt.) Ltd. vs. Murtaza Y. Mandviwal & Ors.)

Date \_\_\_\_\_ Order with signature(s) of Judge(s) \_\_\_\_\_

Hg:/ Priority.

**Date of Hearing and Order:** 05.08.2026.

Petitioner: Through M/s. Sheikh Jawaid Mir, Agha Atta  
Muhammad, Ms. Samreen Ehtishan, Advocates

Respondent No 1: Through M/s. Mehmood Y. Mandviwalla, Hassan  
Mandviwalla, Hassan Ali and Muhammad Zulqarnain,  
Advocates

## ORDER

*Nisar Ahmed Bhanbhro, J.* This petition is directed against the concurrent findings of the Courts below. The First Rent Appeal No.163 of 2025 (Re: *M/s Phipson & Company (Pvt.) Ltd. v. Murtaza Y. Mandviwalla*) filed by the Petitioner (**Tenant**) was dismissed by the learned VIIth Additional District Judge (South), Karachi, (**Appellate Court**) vide judgment dated 06.03.2026 and the order dated 14.07.2025 passed by the learned XIIIth Rent Controller (South), Karachi, (**Trial Court**) in Rent Case No.1058 of 2023 (Re: *Murtaza Y. Mandviwalla v. M/s Phipson & Company (Pvt.) Ltd.*) was maintained.

2. Learned counsel for the petitioner contended that the petitioner is a tenant of Mandviwalla Chambers, a company incorporated under the Companies Act, 2017 (the repealed Companies Ordinance 1984). He further

contended that the rent case was filed by Respondent No 1 Murtaza Y. Mandviwalla (**Lanldord**) through an unauthorized person. The Landlord never appeared before Learned Trial Court to adduce evidence. He contended that a duly authorized agent did not fall within the definition of Landlord as envisaged under Section 2 of Sindh Rented Premises Ordinance, 1979 (SRPO). He further submits that the Landlord failed to establish default in payment of rent or its bona fide personal need to get ejectment. He further contended that no notice under section 18 of the SRPO was given to the Tenant on change of ownership, which vitiated the entire proceedings. He further contended that the findings of fact recorded by courts below suffered from misreading and non-reading of evidence that warranted interference by this Court to exercise its powers of judicial review under its constitutional jurisdiction and lastly prayed to allow this petition by setting aside the concurrent findings.

3. Learned counsel, Mr. Mehmood Y. Mandviwalla, appearing for Landlord, argued that Tenant has remained under possession of the demised premises for more than sixty years, during the said period he was never disturbed. However, with the passage of time, the Landlord expanded its business, and the demised premises became genuinely required for its bona fide personal use for the purpose of business expansion. He submits that such requirement was specifically pleaded in the rent application and was duly substantiated through evidence of Landlord's duly authorized attorney. He further contended that the rent case was filed through a duly authorized representative on behalf of the Landlord, moreover Landlord is also a co-owner of the demised premises by virtue of a Sale Deed dated 20th September, 2008, and is, therefore, competent to maintain the rent case. Learned counsel further submits that the status of landlord has been admitted by the petitioner while cross-examining the witness before learned trial Court. He argued that the Courts below recorded concurrent findings of fact which did not suffer

from any misreading or non reading of the evidence. He further contended that this Court, under its constitutional jurisdiction cannot interfere with concurrent findings of fact unless the same are shown to suffer from any misreading or non-reading of evidence or the impugned order suffered from material illegality or jurisdictional defect. According to him, no such infirmity existed in the present case, and, therefore, prayed to dismiss the petition. In support of his submissions, learned counsel has placed reliance upon the case of *M. Hamad Hassan v. Mst. Isma Bukhari & Others*, reported as 2023 SCMR 1434. He lastly prayed to dismiss this petition.

4. Heard arguments and perused the material available on record.

5. From scanning of record, it revealed that there is a long standing tenancy relationship spanning over six decades between the parties. Admittedly, demised premises were rented out to Tenant in the year 1961. Tenant remained in possession thereof for a period of approximately sixty-two years, when the rent case was filed. During this period, no disturbance was caused to the tenant, although suits were filed by Tenant regarding the parking. In the rent proceedings, the Landlord raised two grounds; firstly, regarding default in payment of rent coupled with the enhanced rent, and secondly, personal bona fide need.

6. As far as the alleged default in payment of enhanced rent is concerned, it is mentioned under Paragraph 3(v) of the rent agreement that rental shall be reassessed after passage of every five years time, and the enhancement of rent shall be made under mutual agreement which shall not exceed ten percent of the actual rent. Landlord has failed to produce any evidence on record to deduce that any agreement other than the original tenancy agreement of year 1961 was executed between the parties for enhancement of rent. As such the

claim of the Landlord with regard to the enhanced rent and default in payment of the same is not borne out from record, therefore, findings of the Courts below to that extent are not sustainable under the law and accordingly set at naught.

7. For Default in payment of regular rent, it is worthwhile to mention here that while deliberating the issue of default in payment of regular rent, learned Trial Court held that Tenant has failed to establish that he paid the regular rent amount from the period of year 2001 to year 2021. Tenant filed MRC No 568 of 2021 and paid rent for the period from March 2021 to August 2024 in the Court. Scanning of the record reveals that Tenant did not furnish any proof to establish that he paid the rent for the default period. Assertion of the Tenant that rent was paid for entire period through bank cheques and on refusal by Landlord to receive rent MRC was filed, and rent was deposited before the Court regularly did not substantiate the claim of payment of rent for the defaulting period. Section 10 of the SRPO articulates a complete procedure for payment of rent, which envisaged that rent should be paid directly to the Landlord or to person authorized in that behalf and in case of refusal to receive rent it may be sent through postal order or may be deposited in the Court. If stance of Tenant is taken as gospel truth that Landlord refused to receive rent, then nowhere it transpired from record that on refusal to receive the rent, Tenant sent it through postal order and ultimately MRC. Even the receipts for payment of rent of the defaulting period were not brought on record, bank transactions did not establish the factum of deposit of the rent for the defaulting period, therefore, no exception can be taken to the findings of Courts below that Tenant defaulted in payment of rent for the period of years 2001 to 2021.

8. Adverting to the issue of personal bona fide need. Clause (g) of Section 2 of the SRPO, defines the term "personal use" as under:--

(g) "***personal use***" means the use of the premises by the owner thereof or his wife (or husband), son or daughter"

9. The ejectment of tenant on the bonafide personal use, can be sought under section 15(2)(vii) which reads as under:

"(vii) the landlord requires the premises in good faith for his own occupation or use or for the occupation or use of his spouse or any of his children".

10. The ejectment application can be maintained by the landlord under Section 15 of the SRPO, which provides in subsection (1) that where a landlord seeks to evict the tenant otherwise than in accordance with Section 14, he shall make such application to the Controller. Subsection (2) envisages that the Controller shall make an order directing the tenant to put the landlord in possession of the premises within such period as may be specified in the order, if he is satisfied that the landlord has made out the case of eviction against the tenant on any of the grounds mentioned in subsection (2) of Section 15 of the SRPO.

11. If the ejectment is sought on the foothold of clause (viii) of subsection (2) of section 15 of the SRPO, it undoubtedly underscores that the landlord has to prove that the premises were required in good faith for his/her own occupation or use or for the occupation or use of his/her spouse or any of his children. Unambiguously, the initial burden of proof shall be on the landlord, and once this burden is discharged, then the onus to prove the contrary is shifted on the tenant.

12. It transpired from the record that landlord has specifically averred in paragraph 4 of the rent application that demised premises were required in good faith for expansion of company's business and further to meet its accommodation needs and to ensure the smooth operation of company's affairs. To such claim of personal bona fide need in good faith of Landlord no specific stance has been taken or evidence adduced by Tenant to say that Landlord did not require the demised premises for personal bona fide need. In para-10 of the affidavit in evidence of Tenant it has been asserted that company has sold out the premises to one Murtaza Y. Mandviwalla, however no word has been uttered to controvert the claim of personal bonafide need. It is always at the prerogative of the landlord to terminate the tenancy agreement if the demised premises are required for his personal need. Landlord is not under any legal obligation to act upon the dictation of tenant. Personal bona fide need has been accepted as sufficient reason to seek eviction of the tenant. In the affidavit in evidence of the Landlord witness, it has been specifically mentioned in para-5 that the premises were required for expansion purpose of M/s Mandviwalla Motors Ltd and this piece of the evidence has not been controverted while cross examining the witness, meaning thereby that the claim of the Landlord has remained unchallenged. The Landlord has successfully established its personal bonafide need during the proceedings. Under the SRPO landlord is entitled to claim vacant possession from the tenant for the reason of default, personal bona fide need etc., and once either of the ground is established then the court has no option but to grant the prayer of the landlord for ejectment. On the point of the personal need, the case of the Landlord is that the subject premises is required for purpose of expansion of business and claim of the Landlord remained un-shattered in cross-examination and nothing contrary to it was adduced in the evidence by the Tenant, therefore, the issue of personal bonafide need stood established and rightly resolved in favor of Landlord.

13. Adverting to the issue of change of ownership of the demised premises and non issuance of notice under section 18 of the SRPO. Admittedly, no notice for the change in ownership was given to the Tenant, for payment of rent to new owner. Since Tenant was required to prove that he did not commit default and continued to pay rent to the previous owner, which he failed and Landlord established that Tenant was defaulter in payment of rent since long. Institution of Rent Application by new owner sufficed the requirements of section 18 of SRPO and was a notice of change in ownership for all means and purposes, as such rent application cannot be dismissed on this ground.

14. Both the fact findings fora below have rendered findings on the issue of personal bona fide need and default in payment of regular rent in consonance with the evidence available on record and this Court under its writ jurisdiction cannot disturb the findings of fact unless the same are found contrary to record. Reliance in this regard can be placed upon the case M. Hamad Hassan v. Mst. Isma Bukhari & Others, *reported as* 2023 SCMR 1434 wherein its para-6 Hon'ble Supreme Court holds that:-

*"6. The objective of Article 199 of the Constitution is to foster justice, protect rights and correct any wrongs, for which, it empowers the High Court to rectify wrongful or excessive exercise of jurisdiction by lower courts and address procedural illegality or irregularity that may have prejudiced a case. However, it is emphasized that the High Court, in its capacity under Article 199, lacks the jurisdiction to re-examine or reconsider the facts of a case already decided by lower courts. Its role is limited to correcting jurisdictional errors and procedural improprieties, ensuring the proper administration of justice. In the present case, the Petitioner pursued his case through the family court and its appeal in the district court and then also invoked the High Court's constitutional jurisdiction to reargue his case amounting to a wrongful*

*exercise of jurisdiction whereby the High Court upheld the factual findings of appellate court after making its own assessments on the same. Allowing a re-argument of the case constituted to arguing a second appeal which should not have been entertained regardless of the outcome of the case."*

15. For the foregoing reasons, no case for interference by this Court, in the exercise of its constitutional jurisdiction, has been made out to disturb the concurrent findings of fact recorded by the Courts below. Consequently, the instant petition fails and is dismissed, along with all pending application(s), if any.

16. Since the Tenant is also a business concern and has remained in possession of demised premises for a period of 65 years. It will be, therefore, in the fitness of things to grant reasonable time to the Tenant to make alternate arrangement and to vacate the demised premises. The Tenant is granted Six months' time from today to vacate the tenement premises, and hand over its possession to the Landlord after depositing the arrears of rent and utility bills, etc., and in case of failure the learned Trial Court will get the demised premises vacated by adopting coercive measures.

17. The Petition stands disposed of in above terms. Office is directed to send copy of this Order to Learned Trial Court for compliance.

**JUDGE**

**Approved for reporting.**