

# IN THE HIGH COURT OF SINDH AT KARACHI

**C.P No.S-313 of 2022**

*(Muhammad Shabbir v. Syed Hanif Shah & another)*

DATE	ORDER WITH SIGNATURE OF JUDGE.
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1. For hearing of CMA No.2152/2022.
2. For hearing of main case.

Mr. Iftikhar Javed Qazi, Advocate for the Petitioner.  
Mr. S.Ahsan Ali Shah, Advocate for respondent No.1.

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Date of hearing : 15.01.2026  
Date of Order : 19.02.2026

## **ORDER**

**Abdul Hamid Bhurgri, J.-** Through the instant constitutional petition, the petitioner/tenant has challenged the order dated 02.03.2022 passed by the learned VII-Additional District Judge, Karachi (South), whereby F.R.A. No.168/2018 was allowed and the order dated 27.04.2018 passed by the learned XI-Rent Controller, Karachi (South) in Rent Case No.109/2017 was set aside with directions to the petitioner/tenant to hand over peaceful and vacant possession of the demised premises to the appellant within 30 days from the date of the order.

2. The facts, as emerging from the record, are that Syed Hanif Shah (respondent No.1/landlord) filed an ejectment application in respect of Shop No.2 measuring 750 square feet, forming part of a leasehold property measuring 376.50 square yards together with construction comprising ground floor and upper four floors consisting of 48 rooms, being run as a hotel known as "Hotel Ambassador", situated at Dr. Dawood Pota Road, Saddar Bazaar, Karachi. It was averred that respondent No.1 purchased the demised premises through a registered conveyance deed dated 08.09.2016 from its previous owner Noor Muhammad Momin, and that the petitioner's father was the original tenant; upon his death, the petitioner became a statutory tenant. It was further pleaded that respondent No.1 had four unemployed sons and required the demised premises for his personal bona fide use for business purposes. Despite personal requests and issuance of a legal

notice, the petitioner failed to vacate the premises, compelling respondent No.1 to file the ejectment application.

3. The petitioner contested the ejectment application by filing a written statement, asserting that after the death of his father Muhammad Irfan, he became the tenant and was running a milk shop and fast-food business. It was alleged that the landlord owned other commercial properties, including Green City Hotel, and that the real intention was to evict the petitioner in order to re-let the premises on higher rent or goodwill.

4. Both parties led evidence. Respondent No.1 examined himself and the previous owner, while the petitioner examined himself and his witnesses. All witnesses were cross-examined at length. The learned Rent Controller dismissed the ejectment application vide order dated 27.04.2018, which was assailed by the landlord in F.R.A. No.168/2018. The appeal was initially allowed vide order dated 01.10.2019 without deciding the petitioner's application under Section 21(3) of the Sindh Rented Premises Ordinance, 1979. The said order was challenged before this Court in Constitutional Petition No.S-1187/2019, which was disposed of on 29.11.2021, remanding the matter with specific directions to decide the application under Section 21(3) SRPO and thereafter decide the appeal afresh.

5. Pursuant to remand, the application under Section 21(3) SRPO was allowed on 14.01.2022 with a direction to the petitioner to produce additional evidence. The additional evidence was recorded on 07.02.2022. Before the order on the application for additional evidence, the petitioner moved another application under Section 21(3) of SRPO, 1979, which was dismissed vide order dated 17.02.2022. Thereafter, after hearing the parties, the learned appellate Court allowed the appeal vide impugned order dated 02.03.2022; hence, the present petition.

6. Learned counsel for the petitioner contended that respondent No.1 failed to disclose availability of other commercial properties, which negated good faith. He argued that tax return documents were produced to establish ownership of other properties and that the inquiry under Section 21(3) SRPO was not properly conducted. He submitted that the learned Rent Controller had rightly dismissed the ejectment application, whereas the appellate Court allowed the appeal without properly appreciating these aspects. He relied upon case laws reported in 2006 SCMR 117, 2002 SCMR 1747, 2004 SCMR 578, 2008 SCMR 398, 2011 SCMR 1306, 1988 SCMR 401, 1994 SCMR 2213, 1985 SCMR 1972.

7. Conversely, learned counsel for respondent No.1 submitted that it is the exclusive prerogative of the landlord to choose the premises for his personal bona fide use and that the tenant cannot dictate such choice. He argued that the petitioner failed to produce any cogent or official evidence to prove availability of any alternate suitable premises in the same locality. He further submitted that the learned appellate Court passed a reasoned order after full compliance with the remand directions, which does not warrant interference under Article 199 of the Constitution of the Islamic Republic of Pakistan.

8. I have heard learned counsel for the parties and perused the record with their assistance.

9. It is a settled principle of law that the landlord is the best judge of his personal bona fide requirement, and neither the tenant nor the Court can dictate how and in what manner the landlord should utilize his property, so long as the requirement is genuine. This principle has been authoritatively laid down by the Honourable Supreme Court in numerous judgments, wherein it has been held that even the availability of another property does not, by itself, negate bona fide requirement. Reliance is placed in the case of ***Salahuddin Ahmed v. Khurram***

**Sultan Abbasi, 2025 SCMR 1691**, wherein the Honourable Supreme Court has observed as under:-

*“It is observed that it is the sole choice and prerogative of the landlord to choose the premises which better suits him as he is the best judge of his personal need and he is not under any legal obligation to act upon dictation of the tenant. Personal bona fide need has been accepted as sufficient reason to seek eviction of the tenant”.*

A similar view was expressed by the Honourable Supreme Court in the case of **Pakistan Institute of International Affairs v. Naveed Merchant and others, 2012 SCMR 1498**, as under:

*“It will be nothing, but reiteration of settled legal position that the statement on oath of the landlord as regards claim of their/his personal need un-shattered in cross-examination and un-rebutted in defence evidence is to be accepted by the Court as bona fide. Moreover, the choice lies with the landlord to select any f the tenement for his personal need and for this purpose the tenant or the Court have no locus standi to give their advice for alternate accommodation”.*

Likewise in the case of **Jehangir Rustam Kakalia through legal heirs v. Messers Hashwani Sales & Services (Pvt) Limited, 2002 SCMR 241**, it was held as under:

*“8. Adverting to the submissions advanced by Mr. R.F. Virjeet, Advocate Supreme Court we are of the view, that the respondents being owner and landlord of the demised premises could not be deprived of their right and interest to use their property in a manner more suited to their requirements. No unreasonable restriction can be placed on the exercise of their right which would offend the fundamental rights guaranteed under Article 23 of the Constitution”.*

Similarly, in the case of **Mehdi Nasir Rizvi v. Muhammad Usman Siddiqui, 2000 SCMR 1613**, it was held as under:

*“It is well settled that the landlord has the absolute right to acquire and deal with his property in the manner best suited to him and a tenant has no right to disentitle the landlord of his valuable right to acquire, deal and possess his property which right is again guaranteed by Article 23 of the Constitution”.*

In **Messrs F.K.Irani & Co. v. Begum Feroze, 1996 SCMR 1178**, it was observed as under:

*“Merely the fact that respondent’s husband had 62 shops in Defence Society and 21 shops in Gulshan-e-Iqbal would not disentitle the respondent to apply for ejection on the ground of personal requirement of her son as it is for a landlord to*

*select which of the buildings he wishes to use personally or to provide the same to his children”.*

10. The contention of the petitioner that failure to disclose the availability of other properties defeats the requirement of good faith is misconceived and rests on an erroneous understanding of the settled legal principles governing bona fide requirement. In this regard the Honourable Supreme Court in the case of **Abdul Karim v. Abdul Karim, 1992 SCMR 1300**, has observed as under:-

*“Learned Rent Controller has examined evidence and has rightly come to the conclusion that landlord has large family including seven sons out of whom two are employed in Government service whereas four other sons are unemployed, and demised shop is wanted for the benefit of unemployed sons. In the instant case we are of the view that evidence produced by landlord is sufficient and satisfactory and supports his claim that shop in question is required for his sons. This being so, objection of technical nature that landlord did not mention in ejectment application that he has other shop will not come in the way in this case for the reason that claim of landlord right from the beginning is that shop is needed for his sons and not for himself. Reference can be made to the cases of Muhammad Sharif v. Nisar Ahmad and others reported in 1988 SCM 1587 and Mst. Toheed Khanam Muhammad Shamsad reported in 1980 SCMR 593”.*

11. Once the landlord asserts personal bona fide requirement and supports the same through evidence, the burden shifts upon the tenant to establish that such requirement is not genuine or is tainted with mala fide. In the present case, the petitioner has failed to discharge such burden. No official witness from any relevant department was examined to establish that respondent No.1 owned or possessed any vacant and suitable alternate commercial premises in the same locality. Mere assertions or unsubstantiated documents are insufficient to rebut a bona fide requirement. Reliance is placed in the case of **Iqbal Book Depot and others v. Khatib Ahmed and 6 others, 2001 SCMR 1197**, wherein Honourable Supreme Court has observed as follows:

*“It is well-settled by now that where the statement of landlord on oath was quite consistent with his averment made in the ejectment applications, neither his statement was shaken nor*

*anything was brought in evidence to contradict the statement that would be considered sufficient for acceptance of the ejectment application. In this regard we are fortified by the dictum laid down in case titled Juma Sher v. Sabz Ali 1997 SCMR 1062, wherein it was held as follows:-*

*“Sole testimony of the landlord is sufficient to establish his personal bona fide need of premises. Where the statement of landlord on oath was quite consistent with his averments made in the ejectment application and neither his statement was shaken nor anything was brought in evidence to contradict his statement and tenant had not even stepped in the witness-box to controvert the testimony of the landlord, Rent Controller was fully justified in accepting the evidence of the landlord and ordering eviction of the tenant.”*

12. It is equally settled that in exercise of constitutional jurisdiction under Article 199 of the Constitution, this Court does not sit as a Court of appeal to re-appraise or re-evaluate evidence unless the impugned order suffers from jurisdictional defect, misreading or non-reading of evidence, or is patently perverse. Reliance in this regard may be placed in the case of **Shakeel Ahmed and another v. Muhammad Tariq Farogh and others, 2010 SCMR 1925**, wherein Honourable Supreme Court has held as under:

*“8. We have carefully perused the impugned judgment passed by the learned Single Judge in chambers of High Court of Sindh and seen that not only the said judgment is outcome of misreading and non-reading of evidence, but also the learned single Judge in chambers failed to appreciate, that jurisdiction under Article 199 of the Constitution cannot be invoked as substitute of another appeal against the order of the appellate Court. Therefore, mere fact that upon perusal of evidence, High Court came to another conclusion would not furnish a valid ground for interference in the order of the appellate Court, which is final authority in the hierarchy of rent laws i.e. Sindh Rented Premises Ordinance, 1979”.*

13. In the present case, the learned appellate Court, being the final fact-finding authority under the rent law, re-appraised the entire evidence independently and recorded its own findings. No specific instance of misreading or non-reading of material evidence has been pointed out. The application under Section 21(3) SRPO was decided in

compliance with the remand order; additional evidence was permitted and recorded; and thereafter the appeal was heard afresh. No prejudice has been shown to have been caused to the petitioner.

14. For the foregoing reasons, the instant constitutional petition is **dismissed** along with all pending applications. There shall be no order as to costs.

15. The case laws relied upon by learned counsel for the petitioner have been duly considered; however, they are distinguishable on facts and do not advance the petitioner's case.

*JUDGE*

Ayaz Gul