

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Constt. Petition No. S- 454 of 2024

Petitioner	Javed Raza Shaikh, Through Mr. Abu Bakar Masood, Advocate
Respondents	Through Mr. Zamir Ali Shah, Advocate
Date of hearing	14-03-2025
Date of order	14-03-2025

ORDER

KHALID HUSSAIN SHAHANI, J. The Petitioner being aggrieved & dissatisfied with impugned order dated 28.02.2024 passed by learned 1st Rent Controller Larkana in Rent Application No.12/2022 (Re: Rab Nawaz Vs. Javed Raza) whereby the rent application filed by respondent was allowed; and impugned Judgment dated 28.2.2024, passed by learned appellate Court in First Appeal No.01 of 2024 also upheld, has preferred instant petition.

2. Briefly, the facts giving rise to file rent application are that the Respondent No.1, is owner/landlord of shop constructed on C.S No.1763/10 situated at Haq Mojood Shopping Center, Resham Gali, Larkana. On 01.11.1999 respondent/landlord entered into rent agreement with Petitioner/tenant and rented out a shop/premise and monthly rent amount of Rs.3000/- was fixed and opponent/tenant paid Rs.4,00,000/-as advance at the time of execution of rent agreement. Thereafter, Petitioner used to pay monthly rent regularly and respondent No.1, shifted to Hyderabad for earning purpose, but intended to come back at Larkana and wants to run his own business, hence he required premises for his personal bona fide use; therefore, asked the Petitioner to vacate the premise, but he did not do so. On 27.05.2021, the Respondent No.1 issued legal notice to vacate premise

for his personal bona fide use, but Petitioner/tenant did not vacate the same.

3. Learned Counsel for the petitioner submits that orders passed by courts below are based on technical points. The respondent No.1, Even landlord could not take bona fide, justifiable ground for eviction as held in section 15 of Sindh Rented Premises Ordinance, 1979, even entire application was completely silent regarding any negligence on part of petitioner. He added, the impugned judgment/order passed by courts below are bad in the eye of law, resulted miscarriage of justice; that the both the courts below did not consider the possession status in favor of petitioner, even nature and structure has never been changed by Petitioner of subject shop, therefore, order is required to be interfered; that there is mala fide on the part of Respondent No.1 who only wants to get vacate shop from appellant, thus there is only personal grudge of respondent/landlord and having no bona fide personal need of shop; the learned Rent Controller quoted old precedents and entire case is silent regarding basic ingredients of Section 15 of SRPO 1979; in last he prayed for setting aside the impugned order and allowing of instant rent appeal in the interest of justice. He relied upon case laws reported as (2023 YLR 40).

4. On the other hand learned counsel for respondent contended that impugned orders passed by learned courts below are in accordance with law and do not require interference by this court. He added, the execution application filed by him was also allowed by the learned Rent Controller and prayed for dismissal of this petition.

5. Admittedly, the respondent No.1 filed rent application against the Petitioner for evicting him from the rented shop on the ground of personal bona fide use, wherein Petitioner appeared and filed his written statement, admitting the relationship of landlord and tenant between them, but denied, the rented shop is required to respondent

No.1 for his personal bona fide use. The respondent Rab Nawaz examined himself at Exh.22 and he was cross examined by learned counsel for Petitioner. The Petitioner also got recorded his evidence through his attorney Jamaluddin and Rent Controller after hearing the parties allowed the rent application, directing the Petitioner or anybody else on his behalf to vacate the subject shop within one month. It is evident from record that Respondent No.1 prayed for possession of rented premises on personal bona fide use for running his own business; it is settled law that it is choice and prerogative of landlord to occupy any tenancy under his ownership for his own use without any dictation. In this regard learned appellate court has rightly placed reliance upon '**Pakistan Institute of International Affairs vs. Naveed Merchant & Others**' (2012 SCMR 1498). In this case, the respondent/landlord got recorded his evidence before learned Rent Controller on oath that rented shop is required for his personal bona fide use; therefore, I am of the view that learned Rent Controller Larkana as well as learned Appellant court has passed the impugned order after proper appreciation of law and evidence and same is not required to be interfered by this court; therefore, point under discussion is replied in negative; consequently, the Petition is dismissed with no order as to costs.

JUDGE