

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
C.P. No.S-1360 of 2012

Date	Order with Signature of Judge
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<i>Alamgir Welfare Trust</i>	..... <i>Petitioner</i>
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*Versus*

<i>Sher Ahmad Khanzada and others</i>	..... <i>Respondents</i>
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Date of hearing :30.05.2025

Date of order :30.05.2025

M/s. Khursheed Javed, Advocate for the Petitioner a/w  
Ms.Mahmooda Suleman, Advocate.  
M/s. Muhammad Mustafa and Zain A. Jatoi, Advocates for the  
Respondent No.1.

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**O R D E R**

1. Instant petition has been preferred against the Impugned order dated 07.09.2012 passed in F.R.A. No.108/2011 by the learned III-Additional District Judge, Karachi East. The said F.R.A. was emanated from the order passed on 31.03.2011 by the learned III-Rent Controller, Karachi East, in Rent Case No.78/2010, which was preferred by the present Petitioner against Respondent No.1.

2. Brief facts of the case are that the above noted Rent Case was filed by the Petitioner before the learned III-Rent Controller, Karachi East, primarily on the ground of default and personal bonafide need. The learned III-Rent Controller, Karachi East, vide order dated 31.03.2011 dismissed the rent application filed by the Petitioner primarily on the ground that no relationship of landlord and tenant was established between the parties. Learned Rent Controller, it is imperative to note, did not make any determination on the ground of default and personal need as it was held that there was no relationship between the parties, in determination

of point No.1. Thereafter, the Petitioner preferred the above noted FRA, which was dismissed vide order Impugned order 07.09.2012. Learned counsel for the Petitioner has Impugned the concurrent findings of the Courts below.

3. Learned counsel for the Petitioner has stated that the finding in respect of the relationship of the parties by both the Court below is erroneous is liable to be set-aside by this Court in its Constitutional jurisdiction. He has further argued that he had annexed registered conveyance deed of the subject property, which shows that the welfare trust i.e. the Petitioner was owner of the subject property. Learned counsel has further invited my attention to Notice under Section 18 of the Sindh Rented Premises Ordinance, 1979, (“SRPO”) dated 03.10.2002 and 26.11.2002. He has further averred that the Respondent during cross-examination admitted the receipt of such Notice and even acknowledged the Petitioner as the owner of the tenement in question. Lastly, learned counsel for the Petitioner has relied upon the judgment in the case of *Messrs Habib Bank Limited vs. Sultan Ahmad and another<sup>1</sup>*.

4. Conversely, learned counsel for the Respondent has contended that there is no relationship of landlord and tenant between the parties and this Court cannot set-aside the finding, which is concurrent in nature. He has specifically submitted that even though the registered conveyance deed was annexed with the Rent Case filed by the learned counsel for the Petitioner, however, no Power of Attorney to preceding the sale deed was annexed. Therefore, the chain of documents was incomplete and the Petitioner is not liable to file above noted Rent Case. He has further argued that the personal bonafide need of the Petitioner cannot be made as the property is residential in nature upon which no hospital can be built. He has reiterated that the concurrent findings of the Courts below require no interference by this Court.

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<sup>1</sup> 2001 SCMR 678

5. I have heard the learned counsel for the parties and perused the record. More particularly, I have perused the cross-examination of the Respondent, which has been reproduced in the order of the trial Court dated 31.03.2011. Relevant portion of the same is reproduced below: -

*“It is correct to suggest that the property in my occupation was transferred in favour of applicant trust on 01.10.2002. It is correct to suggest that the applicant had served notice of attornment upon tenant on 03.10.2002. It is correct to suggest that I did not reply the notice of attornment. It is correct to suggest that I did not remit the rent as demanded by the applicant.”*

6. Further, I have examined the conveyance deed, which shows the Petitioner as owner of the property in question. Admittedly the said conveyance deed was exhibited before the learned Rent Controller while recording of evidence. It is held that there was no need for the Petitioner to establish the entire chain of documents before the learned Rent Controller. More so in the circumstances of the present case where the admission of the Respondent is very categorical as reproduced above. The learned Rent Controller went into an impermissible exercise of examining the title of the present Petitioner and the same was beyond the jurisdiction of the learned Rent Controller. Inevitably, the finding given by the learned Rent Controller was erroneous and not sustainable in law.

7. The Hon’ble Supreme Court in the case of **Habib Bank Limited** (supra) expounded on the proposition adjudicated above and held as under: -

*“10. Before parting with the judgment we would also like to observe that the tenant has no right to demand title documents from the landlord on receipt of notice within the meaning of section 18 of the Ordinance because no sooner notice is served upon him or it is otherwise conveyed to him either in the judicial proceedings or by some other reliable source he is bound to accept the new owner as his landlord as held in the cases of Muhammad Ashraf v. Abdul Hameed and others (1982 SCMR 237(2) and Suleman and another v. M.A. Mallick (1988 SCMR 775).”*

8. In the light of what has been held above, instant petition is allowed. The point of determination No.1 set by the learned Rent Controller is answered in the negative. Considering that no determination was made on the points of determination pertaining to default and personal bona fide need, I have no option but to remand the case back to the learned Rent Controller to decide and

deliberate on the remaining points of determination within thirty (30) days from today (excluding summer vacations), on the evidence already recorded by the respective parties.

Instant petition is allowed in the above terms.

Judge

Nadeem