

IN THE HIGH COURT OF SINDH, KARACHI

C.P No.D-1492 of 2017

Along with

CPs-1493,1494,1495,1496 & 1922 of 2017

PRESENT:

Mr. Justice Khadim Hussain M. Shaikh
Mr. Justice Arshad Hussain Khan.

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1. **C.P. No.D-1492/2017** Rashid Hussain *versus* PTCL & 3 Others.
 2. **C.P. No.D-1493/2017** Muhammad Saleem *versus* PTCL & 3 Others.
 3. **C.P. No.D-1494/2017** Jameel Ahmed *versus* PTCL & 3 Others.
 4. **C.P. No.D-1495/2017** Asim Noor Khan *versus* PTCL & 3 Others.
 5. **C.P. No.D-1496/2017** Syed Muzaffar Alam *versus* PTCL & 3 Ors.
 6. **C.P. No.D-1422/2017** Mohiuddin Mujahid *versus* PTCL & 3 Ors.
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All Petitioners: Through Mr. Mansoor Ahmed Advocate,

Respondent Through Mr. Ziaul Haq Makhdoom, Advocate a/w
No1:2 [PTCL] Ms. Syeda Busshra Shafique, Assistant Manager
Legal, PTCL.

Respondents Through Mr. Pervaiz Ahmed Mastoi, AAG a/w Ms.
No.3 and 4: Mahmooda Suleman, State Counsel
Advocate .

Date of Hg: 23.01.2019

JUDGMENT

ARSHAD HUSSAIN KHAN, J.- This consolidated judgment, shall decide all the above titled petitions as common question of law and facts are involved in these cases. Brief facts of all these petitions, which are similar in nature, are given below :-

2. Through these petitions, the petitioners of the respective petitions have challenged the orders dated 31.01.2017, passed by the IVth Additional District & Sessions Judge, Karachi (Central) in their respective Criminal Revisions No.33, 34, 36, 35, 37 and 38 of 2016 whereby the orders dated 23.02.2016, passed by the XIth Civil Judge & Judicial Magistrate Karachi (Central) in Misc. Applications/Complaints No.2014, 2017, 2018, 2012, 2019 and 2013 of 2015 directing the

petitioners to vacate their respective accommodation/units were upheld. The petitioners filed the above titled petitions with the following identical prayer:-

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- a) Suspend the operation of impugned orders dated 31.01.2017 and 23.02.2016 till disposal of this petition.
- b) Declare that the order dated 23.01.2017 passed by the IVth Additional District & Sessions Judge, Karachi (Central) and order dated 23.02.2016, passed by the XIth Judicial Magistrate, District Central Karachi as unlawful and illegal.
- c) Direct the respondents No. 1 & 2 to consider the case of petitioner and allow him to continue living in the said accommodation by paying the rent fixed by the respondent's Headquarter vide notification dated 24.01.2006 as allowed to others of the same category persons.
- d) Grant any other or further relief or pass such other order as may be deemed fit and appropriate in the circumstances of the case and;
- e) Award costs of the petition to the petitioner.”

3. A gist of facts as reflected in these petitions are that the petitioners were regular employees of the respondents-PTCL and during their employment they were provided residential accommodations viz. quarters/flats, in PTCL satellite colony, Buffer Zone, Karachi. The petitioners opted for Voluntary Separation Scheme [VSS], introduced by respondent-PTCL and were relieved from their services. In the said VSS, it was mentioned that all the employees of the PTCL, who opted for such scheme were to keep the housing unit/accommodation provided by the PTCL with them, a 10% of the total VSS package amount will be kept by the PTCL to be released when the accommodation/housing is vacated/handed over to the PTCL. It is stated that a 10% of the total VSS amount was deducted from the amount offered to the petitioners in respect of their residential accommodation. It is also averred that the PTCL issued a notification No.Estate/1-1/2006 dated 24.01.2006 with the subject of “*Revision of Rentals for PTCL owned Residential Accommodation for retired employees*” specifically for the PTCL retired employees and these revised rates were applicable in cases where an employee does not vacate the PTCL owned accommodation on retirement after the grace

period and these rates are to be charged from the retired employees. It is further averred that the said notification applies to the case of the petitioners as well and the rentals as per said notification are being deducted from the 10% amounts retained by respondent-PTCL in respect of their accommodations. It is also averred that the children of the petitioners are school /college going and their education will be suffered badly and there will be a permanent loss of their education if the current accommodation is got vacated from the petitioners. It has been further averred that Standing Order 16 of the Industrial & Commercial Employment (Standing Orders), Ordinance, 1968, does not apply to the petitioners until and unless it is amended as it pertains to the retrenched, discharged, dismissed and terminated workman whereas the petitioners do not come under this category as they opted for Voluntary Separation Scheme[VSS]. It is also averred that respondent No.2 has obtained the eviction orders impugned in the present proceedings by misleading and misrepresenting the learned trial court and the Sessions Court, hence the same are not sustainable in law and liable to be set aside. It is also stated that the petitioners have been discriminated upon by respondents-PTCL as the similar type of employees are allowed to retain the PTCL accommodation by deducting the rent from their pension whereas the petitioners, who are falling in the same categories, have been compelled to vacate the accommodation. It is further stated that the impugned orders dated 31.01.2017 and 23.02.2016 are contrary to law and facts, hence liable to be set aside.

4. Upon notice of the present petitions, objections/comments have been filed on behalf of the respondents-PTCL stating therein that the petitioners have come to this Court with unclean hands and the petitioners are using delaying tactics so that they could retain the possession of their respective accommodations with them illegally and unlawfully. It has also been stated that since the petitioners, despite several notices, failed to vacate the accommodations provided by the PTCL, the PTCL initiated eviction proceedings under Standing Order 16 of the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968, against them and the impugned orders passed by the learned Courts below are in accordance with law and based on material available on the record. It has been further stated that the petitioners

have failed to point out any irregularity and/or legal infirmity in the impugned orders. It has been also stated that it is settled principle of law that any employer either government concerns or private organization, facilitates its employees with accommodation or other privileges during their services, the said employees are duty bound to vacate/hand over the same to the Employer upon their retirement, discharge, dismissal or termination from their services. It has been also stated that the employees who joined PTCL after 1.1.1996 do not have protection under the Federal Government Guarantee as the PTCL does not have any statutory rules while the appointment of the petitioners were purely on contractual basis hence relationship between the PTCL and the petitioners is governed under the principle of Master and Servant. It has been further stated that as per the terms of the VSS, the Respondents-PTCL withheld 10% of the VSS package which was purely on the condition that the same will be released to the petitioners on vacation of their housing unit / accommodation to the PTCL after completion of grace period of six months i.e. till 30.06.2015 and the respondents-PTCL shall be at liberty to charge monthly rent on market based rate and the petitioners accepted the terms and opted for VSS without raising any objection. It has been also stated that the learned trial courts below followed the entire procedure diligently, carefully and in accordance with law, and no question arises for non-reading or misreading of material available on the record or provided by both the sides.

5. The petitioners have also filed their respective rejoinders to the objections/comments filed on behalf of respondent-PTCL wherein the petitioners while reiterating the contents of the memo of the petitions denied the allegations levelled in the reply/objections being frivolous and misconceived.

6. Learned counsel for the petitioners during his arguments while reiterating the stance taken in the petition has urged that the petitioners were the regular employee of PTCL, however, when the respondents-PTCL introduced the VSS wherein it was facilitated to all relievers to keep the PTCL accommodation even after leaving the company, on the term that a 10% of the total VSS amount will be retained by the PTCL

which will be released/returned to the employee who opted for VSS once the housing accommodation provided to the said employee is vacated by him and handover to the PTCL. Further argued that the petitioners after going through the benefits and the above said facilitates in respect of accommodations opted for the said VSS. Further argued that Standing Order 16 of the Industrial & Commercial Employment (Standing Orders) Ordinance, 1968, does not apply to the petitioners as the same only pertains to the retrenched, discharged, dismissed and terminated workman whereas the petitioners do not fall within the categories. It is also argued that the orders impugned in the present proceedings are not sustainable in law as the learned courts below while passing the said orders have failed to consider the notification dated 24.01.2006 issued by respondents-PTCL and further the petitioners have been discriminated by the respondents as the PTCL has other colonies in Karachi, however, they initiated action only against the retired employees of one colony, i.e. Satellite Colony North Nazimabad, Karachi, where the petitioners' accommodations are situated. It is also argued that the learned courts below while passing the impugned orders have also failed to take into consideration that the petitioners have availed VSS keeping in view the fact that the PTCL accommodations will remain with the petitioners upon payment of market rent as per the notification dated 24.01.2006. The learned courts below have also failed to take into account the fact that the petitioners being pensioners and having no source of income cannot afford the financial burden vis-à-vis new schooling fees for their children etc., in the event they are directed to vacate the PTCL accommodations. Lastly, argued that the orders impugned in the present proceedings are not sustainable in law and as such the same are liable to be set aside. Learned counsel in support of his arguments has relied upon the case of **RIAZ HUSSAIN V. VITH CIVIL JUDGE AND JUDICIAL MAGISTRATE DISTRICT MALIR, KARACHI and 2 others. [Reported as Sultan Ahmed v. VITH Civil Judge and Judicial Magistrate District Malir, Karachi and 2 others: 2016 PLC 411].**

7. Conversely, learned counsel for the respondents-PTCL during the course of his arguments while refuting the arguments of the learned

counsel for the petitioners has contended that the orders impugned in the present proceedings passed by the learned courts below are well reasoned and in accordance with law and as such the same do not warrant any interference by this court in the constitutional jurisdiction. It is further contended that the petitioners had joined the PTCL after promulgation of PTCL Re-Organization Act, 1996, later they opted VSS and relived from their services in the year 2014. Furthermore, the petitioners were neither statutory employees of the respondent company nor they were/are entitled for any pensionary benefits. It is also contended that the petitioners have voluntarily opted for VSS and at the time of entering into VSS agreement they had executed affidavits for vacation of residential accommodations on the date of their retirement or after six month of grace period i.e. till 30.06.2015. However, when the petitioners after completion of the grace period, despite several notices, failed to vacate the residential accommodations provided to them by the respondents-PTCL during their services, the respondents-PTCL, having no option, filed complaints under Standing Order 16 of the Industrial & Commercial Employment (Standing Orders) Ordinance 1968, against the petitioner before the learned XI Civil Judge & Judicial Magistrate, Karachi (Central). Further contended that the petitioners have illegally retained the property of respondent-PTCL and occupying the same without paying any rentals in respect thereof. It is also contended that the petitioners have no nexus with the notification dated 24.01.2006 as the same was issued, at the relevant time, only for those employees who despite having received their benefits under the VSS failed to vacate the PTCL accommodations. Furthermore, no such term with regard to the said notification was agreed to between the parties, i.e. the petitioners and PTCL, at the time of execution of VSS thus the petitioners cannot take any advantage of the said notification. Lastly, contended that the petitioners have failed to point out any irregularity and/or legal infirmity in the orders impugned in the present proceedings which orders even otherwise have been passed on merits after providing proper opportunity to all the petitioners, hence cannot be interfered with and as such the petitions are liable to be dismissed with cost. Learned counsel in support of his arguments has relied upon the case of SULTAN AHMED v. VITH CIVIL JUDGE AND JUDICIAL

MAGISTRATE DISTRICT MALIR, KARACHI and 2 others. [2016 PLC 411] and an Un-reported order dated 02.03.2017 passed by the **Honorable Supreme Court in CrI. Original Petition No. 63 of 2015 to Civil Petition No. 797 of 2016.**

8. We have heard learned counsel for the parties and have also perused the documents available on the record as well as the case law cited at the bar.

9. From the perusal of record, it appears that the PTCL in the year 2015 filed applications [complaints] No.2014, 2017, 2018, 2012, 2019 and 2013 of 2015 before the Court of XIth Civil Judge & Judicial Magistrate, Karachi (Central) under Standing Order 16 of Industrial and Commercial Employment [Standing Order] Ordinance, 1968, against the petitioners seeking direction to the petitioners to vacate their residential accommodations provided by the PLCT during their service tenure with PTCL as the petitioners had opted for Voluntarily Separation Scheme [VSS] and relieved from their services in the year 2014 and in consequence thereof, the PTCL served several notices to the petitioners to vacate the said premises/residential accommodations, but the petitioners failed to vacate the same. The said applications were allowed by the learned XIth civil judge Karachi [Central] on 23.02.2016 and the petitioners were directed to vacate their respective premises/residential accommodations, within two months from the date of the order. The petitioners challenged the said order in the aforementioned Criminal Revisions before the Court of IVth Additional District & Sessions Judge Karachi [Central], which were also dismissed and the orders passed by the learned XIth civil judge was maintained. The petitioners have challenged the said orders of the learned courts below in the captioned petitions.

10. Record also transpires that the petitioners accepted the severance of their ties with the respondent company by opting settlement under VSS. In this regard letter dated 09.12.2014 addressed by the PTCL to the petitioners wherein the respondent-PTCL while accepting the application of the petitioners to opt VSS also notified that if the petitioners are availing PTCL owned accommodations then a 10% of the net amount of VSS will be withheld until confirmation of handing

back of the housing unit is received. It was notified that the accommodation has to be vacated by 30.06.2015, otherwise monthly rent will be charged on the market based rate as prescribed by the company. There is nothing available on the record, which could show that the said letter was ever disputed by the petitioners. On the contrary, they themselves relied upon the said letter and have annexed the same with their petitions. In the circumstances, upon acceptance of the offer, all the terms and conditions provided and agreed under the VSS became binding on both the parties. Reliance in this regard can be placed upon the case of *PAKISTAN TELECOMMUNICATION COMPANY LIMITED and others V. YASMEEN TABASSUM and others (2014 PLC 176)*.

11. The main contention of the learned counsel for the petitioners was that Standing Order 16 of the Industrial & Commercial Employment (Standing Orders) Ordinance, 1968, does not apply to the petitioners as the same only pertains to the retrenched, discharged, dismissed and terminated workmen whereas the petitioners do not fall within the categories.

12. Before going into any further discussion, it would be advantageous to set out Standing Order 16 of the Industrial & Commercial Employment (Standing Orders) Ordinance, 1968, which provides as under:

"16. Eviction from residential accommodation.-- (1) Notwithstanding the provisions of any law for the time being in force, including those of the West Pakistan Urban Rent Restriction Ordinance, 1959 (W.P. Ordinance No.VI of 1959), a workman occupying residential accommodation provided by his employer, who has resigned or retired, or has been retrenched, discharged or dismissed; or whose services have been terminated, shall vacate such accommodation within a period of two months from the date of his retrenchment, discharge, dismissal or termination of services, as the case may be; provided that in case of reinstatement of the workman, the employer shall be bound to provide him with similar residential accommodation from the date of such reinstatement or pay him per mensem an allowance in lieu thereof at the rate of three times the wages of the last full working day.

(2) If a workman, who has been retrenched, discharged or dismissed, or whose services have been terminated, fails to vacate any residential premises provided by the employer, within the period specified in clause (1), the employer may lodge a complaint with a magistrate of the first class having jurisdiction in the area where such residential accommodation is located.

(3) The magistrate on hearing the parties, may, notwithstanding anything contained in any other law for the time being in force, summarily decide the case and may pass an order of eviction, giving the workman a reasonable time to vacate the premises.

(4) Where a magistrate passes an order for the eviction of a workman, he may also pass an order directing a police officer to evict such workman and any other person occupying through such workman the residential accommodation in respect of which the order of eviction is made, if the workman or such other person fails to vacate the accommodation within the time allowed under clause (3).

(5) A police officer acting under an order of the magistrate under clause (4), shall notify the occupants of the premises in question, the contents of the Magistrate's order and his intention to enter on such premises, and shall allow at least two hours' time to the occupants to vacate the premises and shall give all reasonable facilities to the children and female occupants, if any, to withdraw therefrom before applying any force for taking over the possession of such premises...."

[Emphasis supplied]

From the perusal of the above provisions of Standing Order 16, it appears that it gives an option to the employer to choose to exercise this provision to evict an employee/workman, who has been retrenched, discharged or dismissed, or whose services have been terminated, and fails to vacate any residential premises provided by the employer, within the period specified, by lodging a complaint with a magistrate of the first class having jurisdiction in the area where such residential accommodation is located. And in this regard the magistrate has the power to decide the complaint of the nature in a summary manner.

Here it would also be appropriate to discuss the object of VSS. The VSS (Voluntary Separation Scheme), introduced by the Companies and Industrial Establishments in order to reduce the surplus staff and to bring in financial efficiency. A considerable amount is paid to an employee towards ex-gratia besides the terminal benefits in case he opts for voluntary retirement under the Scheme and his option is accepted. The amount is paid not for doing any work or rendering any service. It is paid in lieu of the employee himself leaving the services of the company or the industrial establishment and foregoing all his claims or rights in the same. It is a package deal of give and take. The main purpose of paying this amount is to bring about a complete cessation of the relationship between the employer and the employee. After the amount is paid and the employee ceases to be under the employment of the company or the undertaking, he leaves with all his

rights and there is no question of his agitating for any kind of his right in respect of facilities provided to him during his services. Thus, it can be safely deduced that the employee who opts for VSS would fall within the category of retrenched employee and as such the above provisions also applies to the petitioners' case.

13. In the present case, the petitioners having opted for VSS and after entering into the Settlement having fully understood the terms of Settlement and also encashing the amount of Settlement, claimed a sort of tenancy right over the accommodations provided to them during their services with the respondent company. The petitioners, after having opted for VSS, cannot refuse to hand over the residential accommodations provided to them during their services with the respondent company on the ground that S.O.16 [ibid] is not applicable to the petitioners as they do not fall within the category mentioned in the said S.O.16. Learned counsel for the petitioners during the course of arguments also contended that monthly rentals at the market rate as per PTCL notification dated 24.01.2006 are being deducted by the respondents' company in respect of the petitioners' residential accommodations from the petitioners' 10% retained amount. The said contention of the learned counsel for the petitioner was vehemently refuted by the learned counsel for the respondents-PTCL and he made a statement at the bar that no amount of whatsoever nature has been deducted from the retained amount of the petitioners. Even otherwise, the petitioners after cessation of their relationship with PTCL cannot retain the PTCL owned accommodations which were provided to them during their services. Moreover, from the perusal of letter dated 09.12.2014 addressed by the PTCL to the petitioners, whereby the PTCL had accepted the VSS applications of the petitioners, clearly transpires that 10% of the amount was retained/withheld in the nature of security amount so that the accommodations will be returned back to the PTCL within cutoff date mentioned in the said letter. Nonetheless, this letter neither says that monthly rentals will be deducted from the said retained/withheld amount nor does constitute any right, tenancy or otherwise in favour of the petitioners, in respect of the accommodations occupied by them, to refuse vacation of the same.

14. In view of the above, when we examined the orders impugned in the present proceedings, we did not find any illegality in the impugned orders. Furthermore, learned counsel for the Petitioners also could not point out any error and/or any illegality, infirmity or jurisdictional error in the impugned orders, which could warrant interference by this Court in extra ordinary jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

15. It is a well settled that Article 199 of the Constitution casts an obligation on the High Court to act in the aid of law and protects the rights within the frame work of Constitution, and if there is any error on the point of law committed by the courts below or the tribunal or their decision takes no notice of any pertinent provision of law, then obviously this Court may exercise constitutional jurisdiction subject to the non-availability of any alternate remedy under the law. This extra ordinary jurisdiction of High Court may be invoked to encounter and collide with extraordinary situation. This constitutional jurisdiction is limited to the exercise of powers in the aid of curing or making correction and rectification in the order of the courts or tribunals below passed in violation of any provision of law or as a result of exceeding their authority and jurisdiction or due to exercising jurisdiction not vested in them or non-exercise of jurisdiction vested in them. The jurisdiction conferred under Article 199 of the Constitution is discretionary with the objects to foster justice in aid of justice and not to perpetuate wrong. However, if it is found that substantial justice has been done between the parties then this discretion may not be exercised. So far as the exercise of the discretionary powers for upsetting the order passed by the courts below is concerned, this Court has to comprehend what illegality or irregularity and/or violation of law has been committed by the courts below which caused miscarriage of justice. Reference may be placed to the case of Muslim Commercial Bank Ltd. through Attorney v. Abdul Waheed Abro and 2 others (2015 PLC 259).

16. We have also examined the case law cited by the learned counsel for the parties. In effect both the learned counsel have relied upon the same judgment passed by this Court in constitutional petition

No. 173 of 2015 reported as *Sultan Ahmed versus Vith Civil Judge and Judicial Magistrate District Malir Karachi and 2 others* [2016 PLC 411]. In this case the petitioners were employees of K-Electric (formerly known as KESC). They were provided with residential accommodations by the respondent K-Electirc. The petitioners' services were terminated due to unfair labour practice. Being aggrieved by such action the petitioners filed grievance petitions before the NIRC and obtained interim relief to maintain status quo in respect of the residential accommodation. During pendency of the said petitions the K-Electric gave notice to the petitioners to vacate the residential accommodation that was being occupied by them, and filed complaints under Standing Order 16 of the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968. The concerned magistrate allowed complaint/application and directed the petitioners to vacate the residential premises occupied by them within a period of two months, failing which the SHO of the concerned police station was directed to ensure their eviction. The said orders were challenged and impugned in the said petitions.

This court while dealing with issue involved in the above case, inter alia, has held as under:-

“ 12. This brings us to the nub of the matter. If the petitioners come within scope of the 1968 Ordinance, then S.O.16 applies to them, in which case the magistrate concerned did have the jurisdiction to make the impugned orders. The petitioners however rely on the interim orders made by NIRC under the 2012 Act. As just noted, they also come within the scope of this statute. What needs to be considered therefore is the nature and scope of the interim orders. More precisely, what is the power to make an interim order under the 2012 Act, and how does it interact with S.O.16 of the 1968 Ordinance? Section 57(2) of the 2012 Act provides, as presently relevant, as follows: "[t]he Commission may, on the application of a party, or of its own motion,... (c) grant such relief as it may deem fit including interim injunction". As noted above, in almost all the petitions, there are interim orders on the record where the NIRC has directed that status quo be maintained in respect of the residential accommodation. Learned counsel for the respondent contended that the power conferred by section 57(2)(c) operates only within the four corners of the 2012 Act and does not apply in respect of any matter not within its remit. Hence, it was submitted, the interim orders did not apply in relation to S.O.16. Having considered the point we are, with respect, unable to agree. We come to this conclusion for three reasons. Firstly, in our view, the scope of section 57(2)(c) is, on the face of it, not restricted in the manner suggested by learned counsel for the respondent and we see no reason to limit it so. The language of the clause is open-ended and is clearly intended to grant full power to the NIRC to make such order, including an interim order, as best meets

the interests of justice in the facts and circumstances of the case before it. Whether the NIRC has properly exercised the power is of course something to be ultimately decided in the proceedings before the NIRC itself and/or in any proceedings arising directly out of its decision. However, it is not for us, in these proceedings, to delve into this aspect. What we are concerned with is only whether, in law, the NIRC has the power to make the interim orders relied upon by the petitioners. If a workman/employee raises before the NIRC a grievance of dismissal on account of an unfair labor practice, does it have the power to make an interim order directing the employer to maintain status quo with respect to any residential accommodation that may have been provided to the employee? In our view, keeping in mind the broad terms in which section 57(2)(c) is expressed, the answer to this question ought to be in the affirmative.”

“18. As is clear from the foregoing, we conclude that the impugned orders of the learned magistrate suffer from material and serious errors of law. At the same time, it is also clear from those orders that the only defense made out by the petitioners was on the basis of the interim orders of the NIRC. If such interim orders were not in the field, then the petitioners would essentially have had no defense before the learned magistrate. In such circumstances, although the learned magistrate did fall into serious legal error by, e.g., relying on the two judgments noted in the impugned orders, it could have been the case that his orders would have been allowed to stand. Having considered the point, in our view while the petitioners are entitled to relief in these petitions, such relief has to be molded and tailored in the manner as set out below.

[Emphasis supplied]

19. This judgment shall apply to: C.Ps. Nos. 173, 174, 175, 176, 177, 178, 230, 231, 232 and 233, all of 2015.

20. These petitions are disposed of in the following terms:

a. In all those petitions in which NIRC had made interim orders directing that status quo be maintained in respect of the residential accommodation, the impugned order of the learned magistrate is stayed and suspended subject to what is further stated below.

b. Any petitions in which there were no interim orders of the NIRC are hereby dismissed.

[Emphasis supplied]

c. If the proceedings pending before the NIRC conclude in favour of a petitioner whose case comes within sub-para (a), the impugned order made against such petitioner shall then be deemed to have been quashed and set aside.

d. If the proceedings pending before the NIRC conclude adversely to or against a petitioner whose case comes within sub-para (a), the impugned order made against such petitioner shall be deemed to have become operational and will then take effect on its own terms.

e. If a question arises as to whether, for purposes of this para 20, the proceedings pending before the NIRC have concluded in favour of or adversely to a petitioner, then such petitioner or the respondent (as the case may be) may file an application in the relevant petition, which will be decided by the Court by making such order, consistently with this judgment, as is deemed appropriate.

f. If any of the proceedings pending before the NIRC do not conclude within nine months from today then the petitioner or the respondent shall be at liberty to file an appropriate application in the relevant petition, on which the Court will make such order, consistently with this judgment, as is deemed appropriate.”

17. In the present matter, since neither the petitioners have challenged their cession of their relationship with PTCL under VSS nor any interim order was being operated against the vacation from the residential accommodation, therefore, this case law will not help the petitioners. Conversely, it supports the stance of the respondents-PTCL case.

18. Besides above, learned counsel for the respondent also relies upon an un-reported order dated 02.03.2017 passed by the **Honorable Supreme Court in Crl. Original Petition No. 63 of 2015 to Civil Petition No. 797 of 2016**. Relevant portion for the sake of ready reference is reproduced hereinbelow:-

“2. It is pointed out by the learned counsel representing PTCL that the petitioner has unauthorisedly retained occupation of the flat beyond his entitlement. Though he retired in April 2015 and was entitled to retention only for six months, the petitioner has not delivered possession of the flat till date in the light whereof, we direct that the possession of the flat be handed over to PTCL within a period of one and half month from today, otherwise necessary proceedings will be initiated against the petitioner”

19. In the circumstances, the upshot of the above discussion is that the captioned petitions, being devoid of merit, are hereby dismissed.

JUDGE

JUDGE

Karachi
Dated: 18.02.2019