

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.S-1074 of 2018

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

Hearing/priority case

1. For hearing of main case
 2. For hearing of CMA No.4410/2018 (Stay)
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07.04.2021

Mr. Fazal-ur-Rehman, advocate for petitioner
M/s. Abrar Hasan and Syed Masroor Ahmed Alvi, advocate for
respondents

Respondent preferred an application for eviction of the petitioner on personal bona fide need which matter was contested upto the Hon'ble Supreme Court. The possession on the aforesaid count was handed over to the respondent after a serious contest between the parties on 26.11.2012. Present dispute arose when an application under Section 15-A of the Sindh Rented Premises Ordinance, 1979 was preferred by the petitioner that subject premises was re-let by the respondent. The evidence was recorded and the trial court after discussing the evidence it came to the conclusion that though it is not the case of re-letting yet possession was handed over to an employee by landlord and consequently allowed application under Section 15-A of the Sindh Rented Premises Ordinance, 1979. The respondent preferred appeal on the strength of the evidence that was led by the parties in respect of the application under Section 15-A of the SRPO, 1979 and the findings of the trial court were reversed on the count that application was filed after a delay of more than 17 months and there was no case of re-letting.

I have heard the learned counsel for the parties and perused the material available on record. The requirement of Section 15-A of the Sindh Rented Premises Ordinance, 1979, is that the land-lord, who obtained the possession of the premises under section 14 or under clause (vii) of section 15, relets the building or premises to any person other than the previous tenant or puts it to a use other than personal use within one year of such possession, he shall be punishable with fine and that the tenant who has been evicted may apply to the Controller for the restoration of possession.

Two things are essential that the premises ought to have been re-let on behalf of the landlord and that he does so within one year of such possession. It is not demonstrated that the premises was "re-let" within one year of such possession being delivered to the landlord. Landlord in evidence has demonstrated that it was not feasible/suitable for his immediate occupation as the condition of the premises was dilapidated as left by the tenant and since there was apprehension that the premises may be reoccupied, he allowed one of his employees to occupy the same along with his mother till its repair. This statement of the landlord and the witness was not seriously shattered in the cross-examination. During cross-examination, the landlord stated that since he had received the possession of the premises in a dilapidated condition from the tenant/judgment debtor but the same was not suitable for his accommodation and he handed over the same to one of his employees on temporary basis and it is now in his possession since 2015.

Conditions were not met by the tenant/applicant i.e. it was re-let by the landlord and that too within one year of its resuming possession. Witness Zahida Parveen was also examined, who supported the case of the

landlord that she never occupied the premises as tenant and that they were not residing in the same premises which was given for a temporary purpose as landlord apprehend its reoccupation by the old tenant.

Evidence available does not fulfill the requirement of Section 15-A of the SRPO as it has to be proved independently that the premises was re-let. Counsel for the petitioner has not been able to prove its contention through evidence that it was a misuse of section 15 of the SRPO whereby the eviction of the petitioner was acquired through a mala fide attempt.

This petition is filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, and the view formed by the appellate Court while considering the evidence cannot be given a second thought just because of the reason that another view is possible out of the evidence that was read by the appellate Court. This petition is not a remedy available under special law of Sindh Rented Premises Ordinance, 1979 and the remedy of appeal has already been exhausted by the petitioner. It is not a case which could be considered as the case of misreading and non-reading of the evidence and hence the conclusion reached by the appellate Court does not require any interference. The petition, as such, is dismissed.

J U D G E

Gulsher/PS