

Order Sheet  
**IN THE HIGH COURT OF SINDH,**  
CIRCUIT COURT, HYDERABAD

CP No. S- 295 of 2012

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DATE	ORDER WITH SIGNATURE OF JUDGE
23.05.2022	

For hearing of MA 3918/12  
For hearing of main case

Mr. Muhammad Arshad S. Pathan, Advocate for Petitioner  
Mr. Muhammad Jameel Khan, Advocate for respondent No.1  
Mr. Altaf Sachal Awan, Advocate for Respondent No.2  
Mr. Allah Bachayo Soomro, Addl.A.G.

This case has a sad history; originally an application under Section 14 of Sindh Rented Premises Ordinance 1979 was filed which provision primarily concerns with a right of widow, or a minor whose both parents are dead or a salaried employee due to retire within next six months or has retired or a person who is due to attain the age of sixty years within next six months or has attained the age of sixty years. As ill luck would have it, this rent application under Section 14 of Sindh Rented Premises Ordinance, 1979 was dismissed both by the Rent Controller as well as by the Appellate Court. Perhaps due to lack of assistance when a petition was filed this Court observed that “personal bona fide need” was rightly turned down by the rent controller; however, the case was remanded for denovo trial for default only, as claimed.

2. Section 14 never demands for a bona fide entitlement; all that is required under Section 14 of Sindh Rented Premises Ordinance, 1979, is that certain events have occurred within frame of Section 14 of Sindh Rented Premises Ordinance, 1979, as stated above. A statement on oath by the applicant within parameter of said provision for personal use and possession is enough. It is this provision of law which does not contain the word “personal bona fide need” as contained in Section 15 of Sindh Rented Premises Ordinance; therefore, both the provisions are different and distinguishable.

3. The case was however remanded earlier only as to whether rent was paid to the respondent No.1 after service of notice and / or service of application under Section 14 of Sindh Rented Premises Ordinance.

4. Admittedly petitioner claiming Din Muhammad to be their landlord and the rent was never paid to Mst. Zahida Haroon. In some of the pending litigation as well as during trial of this rent case, it was admitted that Din Muhammad, father-in-law of Mst. Zahida Haroon respondent No.1 transferred the rights of the property in question to his son Haroon as being their share in property. Essentially this was not disputed by parties. The evidence as required under Section 14 was not challenged; even if it is considered to be case of personal requirement under Section 15 of Sindh Rented Premises Ordinance, 1979; respondent No.1 in her affidavit-in-evidence has stated that she intend to open a shop of cosmetics by removing the intervening walls of the shops in question with the assistance of his father-in-law. Mr. Muhammad Arshad S. Pathan is of the view that it is not customary within the interior of Sindh that a lady could operate a shop of cosmetics. I am afraid that no such customary law is recognized which can restrict a women / lady from conducting a lawful business such as one in hand i.e. running a shop of cosmetics. The assistance of her father-in-law is also not denied. He may be old and feeble but the moral and valuable assistance are always there.

5. Although after remand the rent controller and the appellate court have not given any finding on personal need either with or without bonafide requirement but since the evidences is otherwise available, I therefore deem it appropriate to decide both the issues in favour of respondent that in either case, even if it was an application under Section 15, the personal bonafide need has been proved though such bona fide is not required under Section 14 of the Ordinance. The default is admitted to have taken place as no rent was admittedly tendered after notice of the application under Section 14 and evidence of Din Muhammad who has stated that the property rights of his property have been devolved amongst all his sons and daughters and subject property has come in the pool of Haroon i.e. husband of respondent No.1 who expired. This being a situation, I therefore on both the counts dismiss this petition; however the rights as available to the tenant to challenge conduct of business by respondent No.1 under Section 15-A shall remain protected.

JUDGE