

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

CP No. S- 483 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
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27.05.2022

For hearing of MA 1298/21
For hearing of MA 1755/21
For hearing of main case

Mr. Muhammad Arshad S. Pathan, Advocate for Petitioner
Mansoor Ahmed Respondent No.4 present in person

Although this petition is arising out of the concurrent findings of the two courts below yet there is some evidence available on record which supports the case of personal requirement. There are some contradictory statements made by the attorney and one of the co-owner which somehow overlap and overshadow the straight forward case of personal requirement of the landlord; however, when the entire evidence is read cumulatively I got somehow an impression that these co-owners intend to run a family business through the husband of Nida who is wife of Muhammad Adnan Khan Durrani having experience of garments business and it was desire of the family that he may conduct such business on behalf of the family members. Although there is a contradictory statement in the cross-examination of Syed Waseem Ahmed Jaffery that the premise is required for the business of his brother in law i.e. Muhammad Adnan Khan Durrani, but infact when the entire pleading and affidavit in evidence is read together, the witnesses perhaps means that brother in law would run the shop and conduct business on behalf of the family members who are the co-owners of the premises.

2. I have heard the learned counsel for petitioner and respondent No.4 who is present in person and has reached to the conclusion that the case of personal requirement for the family members has been substantially made out, the minor overlapping should not come the substantive requirement as recorded in the pleading and affidavit in evidence; particularly para-7 of the affidavit in evidence of one Muhammad Adnan Khan Durrani. Para-7 is reproduced as under:-

“ That, the Opponent under such state of facts, specifically notified & requested to arrange some other shop for his business and peacefully handover the vacant physical possession of rented premises of Applicants within three (3) months period, while received his advance amount, as the applicants family desired and projected to start their wholesale business of baby garments for them in rented premises and such proposed business will run by Applicant No.7's husband Fazal Qadeer, under assistance of Applicant No.8's husband namely Jawaid Shaikh for betterment & prosperity of Appellants family.

3. I have inquired from respondent No.4 Mansoor Ahmed Jaffery who is appearing on behalf of rest of the respondents that if a reasonable time be given to the petitioner to vacate the premises; he has reluctantly agreed for a year and he has also agreed that he would pay the outgoing tenant an amount of Rs.8,50,000/- which his brother has agreed in the cross-examination and has no defence in this regard.

4. Hence with the consent of both parties I dispose of this petition that the petitioner shall vacate the premises in one year's time subject to payment of rent; which shall be adjusted from a sum of Rs. 8,50,000/- which is required to be paid by the respondents to the outgoing tenant / petitioner at the time of vacating premises. The balance amount at the end of the year shall be paid by the respondents to the petitioner and only then the premises shall be vacated. In case the petitioner failed to vacate the premises at the end of a year, writ of possession shall be issued without notice with police aid.

With this observation the petition stands disposed of.

JUDGE