

IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD

CP No. S- 287 of 2018

DATE

ORDER WITH SIGNATURE OF JUDGE

27.11.2020

For orders on office objection  
For hearing of main case

Mr. Aqeel Ahmed Siddique, Advocate for Petitioners

Mr. Arbab Ali Hakro, Advocate for Respondents

Mr. Muhammad Ismail Bhutto, Addl.A.G.

The Petitioners have filed this Petition against the concurrent findings of two forums below i.e. Rent Controller and Appellate Court. The primary plea of the Petitioners was that the premises was required in good faith. The good faith is missing in the sense that the premises was never required by the Petitioners for their "own occupation or use". In the evidence it has come that the premises was required so that the Petitioners may sale it. This is beyond the definition provided by Sindh Rented Premises Ordinance as available in terms of Section 15 subsection (vii) as it demonstrates physical occupation and use of premises. In so far as the question of default is concerned both the eviction application as well as the affidavit in evidence is absolutely silent as to the period of default. Counsel is relying upon the cross-examination of the tenant wherein he suggested that he did not send money order in the name of Mukhtiar Begum but he used to pay rent to Rafique Ahmed Qazi. The explanation was reasonably considered by the Rent Controller as well as by the Appellate Court that on refusal the rent was being deposited in the MRC. Moreover, in the absence of specific plea either in the eviction application or even in the affidavit in evidence the question of specific default of specific period and year would be inconceivable to be probed. Lastly the question of damages cannot be ascertained in the premises. It is only impairment of utility of the premises which was a ground available; however, no such evidence was available in this regard too. The Petition as such merits no consideration and is accordingly dismissed.

Sd/- MUHAMMAD SHAFI SIDDIQUI,

JUDGE