

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

**CP No. S- 329 of 2022**

Petitioner : Muhammad Ashfaq Qureshi through  
Mrs. Razia Ali Zaman, Advocate

Respondents : Sindh Small Industries Corporation and others  
through Mr. Ayaz Hussain Chandio, Advocate

Jamal Din Chandio, Estate Officer,  
Sindh Small Industries Corporation Hyderabad present  
in person

Date of hearing & Order : 17.10.2022

**ORDER**

**ADNAN-UL-KARIM MEMON, J.** Through this constitutional petition, the petitioner has called in question the judgment dated 15.3.2022 passed by learned Vth Additional District Judge / MCAC-II, Hyderabad in First Rent Appeal No. 47 of 2021, whereby the learned Judge while dismissing the Appeal maintained the order dated 30.9.2021 passed by learned 2<sup>nd</sup> Rent Controller, Hyderabad in Rent Application No. 109 of 2020.

2. Facts of the case are that respondent- Sindh Small Industries Corporation filed a rent case before the learned Rent Controller for ejection of petitioner which was allowed with a direction to the petitioner to vacate the rented premises within 45 days and handover its vacant physical possession to the respondent without fail. The petitioner being aggrieved by the said order preferred First Rent Appeal which was also dismissed, hence the instant constitutional petition.

3. At the outset I asked learned counsel for the petitioner about the maintainability of the instant petition on the premise that in rent matters, this Court in Constitutional Petition has narrow scope in terms of the ratio of judgment rendered by Honourable Supreme Court in the case of *Muhammad Lehrasab Khan v. Mst. Aqeel-un-Nisa and 5 others* (2001 SCMR 338); however in the present matter, the petitioner has reservation against the original and appellate orders passed in the present matter; and in this regard Mrs. Razia Ali Zaman learned counsel for the petitioner has briefed this court on the subject issue and submitted that the impugned orders are nullity in the eyes of law, learned Rent Controller as well as learned appellate court failed to appreciate that respondent No.1 took the plea for ejection of petitioner on the ground of personal bonafide need showing the need of rented shop to promote and develop the handicraft but the said ground was not proved in evidence; that the ejection application had been filed just to enhance the rent but both the courts below committed illegality in allowing the rent case which was filed without any material showing that the tenement was required for development and promotion of handicrafts by the respondents; that both the courts below did not consider

that the rent case was not maintainable as respondent No.1 / landlord is corporation and the suit by or against corporation was to be dealt under Order XXIX RULE 1 & 3 CPC. She lastly prayed for allowing the instant petition.

4. Mr. Ayaz Hussain Chandio learned counsel for the respondent has raised the question of the maintainability of the instant petition; and, supported the orders passed by learned courts below. In support of his contentions, he relied upon the cases reported as **2020 CLC 392** (*Re. Muhammad Shamshad Sulaiman Versus Mst. Almas Begum and 2 others*), **PLD 2014 Sindh 194** (*Re. Moinuddin Ghori and another Versus Administrator of M/S Sain Francis Church TRUST through Attorney and 2 others*), **PLD 2003 Karachi 188** (*Re. A.T.A Ghumro Versus II Additional District and Sessions Judge, Karachi and 02 others*) and **2017 CLC Note 112** (*Re. Muhammad Nasir Khan and another Versus Muhammad Ateeq and 3 others*).

5. I have heard learned counsel for the parties and perused the record with their assistance.

6. Primarily the sole testimony of landlord is sufficient to establish his personal bona fide need, and if the statement of landlord on oath is consistent with his averments made in the ejection application. Besides, it is not necessary, that the landlord must establish that the premises in question is required for personal bona fide use. It is sufficient under the law if he succeeds in establishing that the premises in question is required for personal bona fide need, thus petitioner / tenant is precluded to raise such a purported plea at this stage. It is well-settled law in rent matters that it is the sole choice and prerogative of the landlord to choose the premises that better suits him as he is the best judge of this personal need and he is not under any legal obligation to act upon the dictation of the tenant. On the aforesaid proposition, I am guided by the decision of Honourable Supreme Court reported as **2018 SCMR 1441** (*Re. Muhammad Hayat Versus Muhammad Miskeen DECD, through LRs and others*).

7. In this view of the matter, it may be observed that the respondent / landlord has also succeeded in proving the subject issues in his favor, before the two courts below.

8. The observation of the two courts below in the impugned Judgment / orders is not suffering from misreading or non-reading of evidence or any of the record and further appears to be under the principle of law laid down and enunciated by the Honourable Supreme Court in its various judgments. No illegality, perversity, or impropriety is found in the impugned judgments. The petition is, therefore, dismissed in terms of the ratio of judgment rendered by Honourable Supreme Court in the case of *Muhammad Lehrasab Khan v. Mst. Aqeel-un-Nisa and 5 others* (**2001 SCMR 338**).

**JUDGE**