

THE HIGH COURT OF SINDH AT KARACHI

C. P. No. S –485/2010

[Ch. Ghulam Muhuyuddin VS. Sheikh Abid & Co (Pvt.) Ltd. and others]

C. P. No. S –486/2010

[M/s. S.N. Enterprises VS. Sheikh Abid & Co (Pvt.) Ltd. and others]

C. P. No. S – 487/2010

[M/s. M.Y Sethi VS Sheikh Abid & Co (Pvt) Ltd. and others]

C. P. No. S – 488/2010

[M/s. Omal Sons Corporation VS Sheikh Abid & CO (Pvt.) Ltd. and others]

C. P. No. S – 489/2010

[M/s. F.M. Corporation VS Sheikh Abid & Co (Pvt.) Ltd. and others]

C. P. No. S – 490/2010

[M/s. Haque Traders VS Sheikh Abid & Co (Pvt.) Ltd. and others]

C. P. No. S – 491/2010

[M/s. Mian & Sons VS Sheikh Abid & Co (Pvt.) Ltd. and others]

C. P. No. S – 492/2010

[M/s. Muhammad Anwar & Co. VS Sheikh Abid & Co (Pvt.) Ltd. and others]

C. P. No. S – 493/2010

[M/s. Haji Ismail & Co. VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 494/2010

[M/s. Andrew Agencies VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 495/2010

[Erum Enterprises VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 496/2010

[M/s. M. Latif Ejaz VS Sheikh Abid & Co (Pvt) Ltd. and others]

C. P. No. S – 497/2010

[M/s. Raas International Trading VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 498/2010

[M/s. Younus A.Sattar VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 499/2010

[M/s. Time Tengra VS sheikh Abid and Co. Ltd. and others]

C. P. No. S – 500/2010

[M/s. M. Siddique Suleman Jangra VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 501/2010

[M/s. Ateeq Trading and Co. VS Sheikh Abid and Co. Ltd. and others]

C. P. No. S – 502/2010

[M/s. Khalid Agencies VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 503/2010

[M/s. Abdul Ghani Sons VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 504/2010

[M/s. Syed Ahmed Ali VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 505/2010

[M/s. Nasir Latif VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 506/2010

[M/s. Muhammad Ismail Ali VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 507/2010

[M/s. Ahmed Brother VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 508/2010

[M/s. Muhammad Anis M. Farhad VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 509/2010

[Zahid Amin Sethi VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 510/2010

[M/s. Muhammad Amin VS Sheikh Abid & Co (Pvt.) Ltd. and others]

C. P. No. S – 511/2010

[M/s. Ameer Pasha VS Sheikh Abid & Co (Pvt.) Ltd. and others]

C. P. No. S – 512/2010

[M/s. Gul Bano VS Sheikh Abid & Co. (Pvt.) Ltd. and others]

C. P. No. S – 513/2010

[M/s. N.U. Nadeem VS Sheikh Abid & Co. (Pvt.) Ltd. and others]

C. P. No. S – 514/2010

[M/s. Malik Abdul Salam VS Sheikh Abid & Co (Pvt.) Ltd. and others]

C. P. No. S – 515/2010

[M/s. Mohsin Iqbal VS Sheikh Abid and Co. Ltd. and others]

C. P. No. S – 516/2010

[Muhammad Arif Siddiqui VS Sheikh Abid & Co. (Pvt) Ltd. and others]

C. P. No. S –518/2010

[M/S Khawaja Muhammad Javed VS Sheikh Abid & Co (Pvt) Ltd. and others]

C. P. No. S – 519/2010

[M/s. Tahir Siddiqui VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 520/2010

[M/s. Firduous Agencies VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 521/2010

[M/s. Hajiani Kherunissa VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S –522/2010

[Moazzam ali khan VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 523/2010

[New Agha Traders VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 524/2010

[M/s. Sajjad Ahmed VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 525/2010

[M/s. Haji Ahmed Haji Usman VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 526/2010

[M/s. Sea Line Service VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 527/2010

[M/s. Excellence Imp and Exp VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 528/2010

[M/s. Sharfuddin and Sons VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S –529/2010

[M/s. Yosuf D. Moris Wala VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 530/2010

[M/s. Haji Ahmed Brothers VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 531/2010

[M/s. Deminion Traders VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 532/2010

[M/s. Hafeez-ur Rehman VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S –534/2010

[M/s. Platinum Commercial corporation VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 535/2010

[M/s. Sajida Bano VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S –536/2010

[M/s. Muhammad Arshad Bhatti VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 537/2010

[M/s. Saleem Rehmatullah VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 538/2010

[M/s. Ali Haroon Enterprises VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 539/2010

[M/s. Vayani Corporation and Nusrat VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 540/2010

[M/s. Younus H-I Dada VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 541/2010

[M/s. Warsi Paradise Corporation VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 542/2010

[M/s. Ghulam Hussain Panjani and Co. VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 543/2010

[M/s. Saifuddin Zakiuddin VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 544/2010

[M/s. Rana Abdul Nasir VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S –545/2010

[M/s. Shahid Amin VS Sheikh Abid & Co. (Pvt.) Ltd and others]

C. P. No. S –546/2010

(M/s. Shahid and Muhammad Altaf VS Sheikh Abid & Co. (Pvt.) Ltd. and others)

C. P. No. S – 547/2010

[M/s. Pak Exporn Overseas VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S –548/2010

[M/s. Bita Textile Corporation VS Sheikh Abid & Co. (Pvt.) Ltd and Others]

C. P. No. S – 549/2010

[M/s. Khurram Corporation VS Sheikh Abid & Co. (Pvt.) Ltd and Others]

C. P. No. S –550/2010

[M/s. SW & Sons VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 551/2010

[M/s. Zainul Hussain VS Sheikh Abid & Co. (Pvt.) Ltd and others]

C. P. No. S – 552/2010

[M/s. Ghulam Muhammad & Sons VS Sheikh Abid & Co. (Pvt.) Ltd and others]

C. P. No. S – 553/2010

[M/s. Ayoub Brothers VS Sheikh Abid & Co. (Pvt.) Ltd and others]

C. P. No. S –554/2010

[M/s. Muhammad H.A Rehman VS Sheikh Abid & Co. (Pvt.) Ltd and others]

C. P. No. S –555/2010

[M/s. Abdul Waheed Abdul Hameed VS Sheikh Abid & Co. (Pvt.) Ltd and others]

C. P. No. S –556/2010

[M/s. M.A Hanfi Brothers VS Sheikh Abid & Co. (Pvt.) Ltd. and others]

C. P. No. S – 557/2010

[M/s. Sultan Enterprises VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 558/2010

[M/s. Manzoor Co. VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S –559/2010

[M/s. Mian Corporation VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S –560/2010

[M/s. Tengra Brothers VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S – 561/2010

[M/s. Esuf Ali Industries VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S –562/2010

[M/s. Consolidated Trading Corp. VS Sheikh Abid & Co. Ltd. and others]

C. P. No. S –751/2010

[M/s. Muhammad Yousuf VS Shaikh Abid & Co. (Pvt.) Ltd. and others]

C. P. No. S –752/2010

[M/s. Silver Fiber Garment VS Sheikh Abid & Co. (Pvt.) Ltd. and others]

C. P. No. S – 753/2010

[H. Qasim Usman VS Sheikh Abid & Co. (Pvt.) Ltd. and others]

C. P. No. S –754/2010

[M/s. Sattar Trading Corporation VS Sheikh Abid & Co. (Pvt.) Ltd. and others]

C. P. No. S – 755/2010

[Haji Wali Muhammad H. Rehmatullah VS Sheikh Abid & Co. (Pvt.) Ltd. and others]

C. P. No. S –756/2010

[M/s. Nixon Agencies VS Sheikh Abid & Co. (Pvt.) Ltd. and others]

C. P. No. S – 757/2010

[M/s. S. Haji Abdul Ghaffar VS Sheikh Abid & Co. (Pvt.) Ltd. and others]

C. P. No. S –759/2010

[M/s. T.S.A. Enterprises VS Sheikh Abid & Co. (Pvt.) Ltd. and others]

C. P. No. S – 760/2010

[M/s. Zindani Export Corporation VS Sheikh Abid & Co. (Pvt.) Ltd. and others]

C. P. No. S –761/2010

[Nadeem Ashfaque VS Sheikh Abid & Co. (Pvt.) Ltd. and others]

C. P. No. S – 762/2010

[M/s. N.A. Traders VS Sheikh Abid & Co. (Pvt.) Ltd. and others]

C. P. No. S –763/2010

[M/s. S. Muhammad Siddique VS Sheikh Abid & Co. (Pvt.) Ltd. and others]

C. P. No. S –764/2010

[Syed Ibadur Rehman VS Sheikh Abid & Co. (Pvt.) Ltd. and others]

Date of hearings : 22.01.2023, 06.03.2024, 21.02.2024,
22.02.2024, 11.03.2024 and 12.03.2024.

Petitioners: : All the above named Petitioners
through Mr. Ch. Saeed-u-Zaman,
Advocate.

Respondent No.1 : Sheikh Abid & Co. (Pvt.) Ltd. through
Dr. Naheed Abid, the Chief Executive of
Respondent No.1-Company

Respondents No.2 and 3
*[Ist Rent Controller Karachi
South and VIth Additional
District Judge, Karachi South,
respectively]* : Nemo

and

C. P. No. S –168 /2014

[Muhammad Shafiq Qureshi VS M/s. Shaikh Abid & Co.(Pvt.) Ltd. & another]

Date of hearings : 05.03.2024, 11.03.2024 and 12.03.2024.

Petitioner
*[Muhammad Shafiq
Qureshi]* : Through Mr. Muhammad Ateeq Qureshi,
Advocate.

Respondent No.1
[Sheikh Abid & Co. (Pvt.) Ltd] : Through Dr. Naheed Abid, the Chief
Executive of Respondent No.1-Company

Respondent No.2
[VIIth Additional District
and Sessions Judge, Karachi
South] : Nemo.

JUDGMENT

Muhammad Faisal Kamal Alam, J: Due to commonality all these title Constitution Petitions are decided by this common Judgment.

2. All these Petitions have challenged the fixation of fair rent by the learned Rent Controller and the Appellate Court, on the Application filed by the Respondent Company under Section 8 of the Sindh Rented Premises Ordinance, 1979 (SRPO), except C.P. No. S-168 of 2014. These Petitions are related to different Offices / Units, situated in a multistorey Building known as ‘**ABID CHAMBER**’, constructed on Plot No.SR, 6/9, Shahrah-e-Liaqaut, New Challi, Karachi.

3. The above Constitution Petition No.S-168 of 2014 is filed against the concurrent findings, directing the eviction of Petitioner, on the ground of personal *bona fide need*. Since the demised premises of this Constitutional Petition, that is, Office No.1/2, First Floor, is also located in the Subject Building, therefore, this Petition is also decided with the title Petitions.

4. Mr. Ch. Saeed-u-Zaman, Advocate for the Petitioners have argued that both the Courts have erred while handing down their respective Decisions and fixation of fair rent at the rate of Rs.6/- Per Square ft., (this rate varies from Case to Case) for the Tenements, which are the Subject Matters of these Petitions; that when the Petitioners / Tenants were paying rent in lump sum as per the Tenancy Agreement, then fair rent cannot be fixed on the basis of per square ft., as is done in the impugned Decisions and on this ground alone, these Decisions should be set-aside; besides, fact about payment of huge goodwill (Pagri) was not considered; that both the Courts have not appraised the evidence at all, *inter alia*, as no person from nearby Buildings in the same vicinity was / were examined, nor any

Tenancy Agreements were produced; factors as mentioned under Section 8 of the SRPO were not available in the present Cases, *inter alia*, because the Subject Building is in dilapidated condition with hardly any amenity; that the entire proceeding initiated by the Respondents suffers from material defect, as the Respondent being Company had / has not authorized the present Representative to file such Cases as no Board Resolution was there. Contended that the Petitioners were not given a fair opportunity to lead the evidence and hence in majority of the Rent Cases, the *ex-parte* Orders were passed by the learned Rent Controller in haste, which is maintained in the Appeal, in violation of statutory provisions of the SRPO. Whereas those Rent Cases (*List of the said Rent Cases will be mentioned in the following Paragraph*) wherein the evidence was led, the same was not properly evaluated, thus both the Courts have not decided the Cases in accordance with law, which illegality ought to be corrected in this constitutional jurisdiction through *a writ of certiorari*.

5. Dr. Naheed Abid, the Chief Executive of Respondent No.1- Company is appearing in person. She has supported the impugned Decisions. While addressing the question of maintainability about the alleged Board Resolution of Respondent Company, she has referred to the Supreme Court Order available in record (**at page-681** of the Court file in leading CP No.S-485 of 2010). It is contended that this issue was decided in favour of the Respondent, besides, that the impugned Decisions in these Petitions are covered by the Judgment of the Hon'ble Supreme Court in the Cases of the other Tenants and the fair rent determined by the Courts below were maintained right up to the Hon'ble Supreme Court, consequently these Petitions should be dismissed.

6. Arguments heard and record perused. To appreciate the rival contentions, Record and Proceeding is also called from the Courts.

7. Case of the Respondent Company (Landlord) being Applicant as averred in the Rent Application under Section 8 of SRPO is, that the Tenants / Petitioners are paying a meagre rent of their respective Units / Tenements **ranging from Rs.126/- (rupees one hundred twenty six only) to Rs.860/- (rupees eight hundred eighty only) per month**; Respondent carried out repairs, plumbing work, making two Lifts / Elevators serviceable, renovated Electricity Wiring and incurred heavy expenditure. Averred that Petitioners / Tenants failed to pay maintenance charges but enjoying all the basic amenities; cited rate of rentals of other buildings in the vicinity, which ranges from Rs.6/- per square ft. to Rs.10/- per square ft., exclusive of maintenance charges, of the years 1982 and 1987 (whereas the Rent Applications filed by the present Respondent was in the year 1997); averred that the Respondent paid exorbitant taxes, which have increased with the passage of time. In Paragraph-11, it is stated that the Petitioners were requested to pay the following enhanced rentals according to location of their Units/ demised Premises, which is reproduced herein under for a ready reference_

“11. That Applicant requested Opponent to pay enhancement rent at the rate in the following manner_

- a. Ground Floor Shops / Offices facing Shahrah-e-Liaquat Rs.18 per sq ft,***
- b. Shops / Offices on the ground floor at the Rs.15 per sq ft.***
- c. Basement and Mezzanine Floor Rs.12 per Sq Ft.***
- d. First and Second Floor Rs.10 per Sq ft.***
- e. Third and Fourth Rs.8 per sq ft. and***
- f. Fifth and Sixth at Rs.6 sq. ft.***

which the Opponent has wilfully overlooked and ignored, while some adhered to the request.”

The above Application (Rent Case) was contested by the Petitioners through their Written Statement. Relationship of Landlord and Tenant is

not disputed. However, it is the stance of Petitioners (Tenants) that no maintenance or repair work has been done by the Respondent and the building in question is in a deplorable state, lacking basic amenities and facilities, which a tenant is entitled to enjoy. The Statement of heavy investment has been categorically disputed being a bogus document.

8. The following Constitution Petitions are those in which evidence was led by the Petitioner and the present Respondent_

- 1) **C. P. No. S – 553/2010**
[M/s. Ayoub Brothers vs Sheikh Abid & Co. (Pvt.) Ltd and others]
- 2) **C. P. No. S –554/2010**
[M/s. Muhammad H.A Rehman VS Sheikh Abid & Co. (Pvt.) Ltd and others]
- 3) **C. P. No. S –763/2010**
[M/s. S. Muhammad Siddique VS Sheikh Abid & Co. (Pvt.) Ltd. & others]
- 4) **C. P. No. S – 552/2010**
[M/s. Ghulam Muhammad & Sons vs Sheikh Abid & Co. (Pvt.) Ltd and others]
- 5) **C. P. No. S –761/2010**
[Nadeem Ashfaque VS Sheikh Abid & Co. (Pvt.) Ltd. & others]
- 6) **C. P. No. S –764/2010**
[Syed Ibadur Rehman VS Sheikh Abid & Co. (Pvt.) Ltd. & others]
- 7) **C. P. No. S –562/2010**
[M/s. Consolidated Trading Corp. VS Sheikh Abid & Co. Ltd & others]
- 8) **C. P. No. S – 561/2010**
[M/s. Esuf Ali Industries VS Sheikh Abid & Co. Ltd & others]
- 9) **C. P. No. S –560/2010**
[M/s. Tengra Brothers VS Sheikh Abid & Co. Ltd & others]
- 10) **C. P. No. S – 558/2010**
[M/s. Manzoor Co. VS Sheikh Abid & Co. Ltd & others]
- 11) **C. P. No. S – 557/2010**
[M/s. Sultan Enterprises VS Sheikh Abid & Co. Ltd & others]
- 12) **C. P. No. S –556/2010**
[M/s. M.A Hanfi Brothers VS Sheikh Abid & Co. (Pvt.) Ltd and others]
- 13) **C. P. No. S –559/2010**
[M/s. Mian Corporation VS Sheikh Abid & Co. Ltd & others]

9. In compliance of direction of this Court, a Statement dated 02.03.2011 was filed by the Respondent along with the Board Resolution dated 12.02.2008, *inter alia*, authorizing her to deal with the Court matters, including tenants of the Subject Building; together with the Decisions of this Court and the Hon'ble Supreme Court.

10. It transpired that earlier Rent Applications / Cases were decided *ex-parte*, but subsequently they were remanded by the Appellate Court and present Petitioners filed Written Statement, but again neither led the evidence nor cross-examined the Respondent's Representative.

11. Adverting to the question of maintainability. Mst. Naheed Abid, while referring to the Board Resolution (*ibid*) has stated that this issue was resolved by the Hon'ble Supreme Court in the Civil Petitions No.24-K to 26-K of 2009, preferred by other Tenants against the Respondents (as stated in the foregoing Paragraphs). The Decision of the Apex Court is at page-681, Paragraph-5 whereof has discussed the contention of the Petitioners' Counsel about non filing of the Board Resolution. The Hon'ble Supreme Court is of the view that since the Rent Applications before the Rent Controller were signed by the Chief Executive of the Company, thus, it is a requisite authority available with the Chief Executive [in terms of Section 2(6) of the then Companies Ordinance, 1984] for filing the Rent Proceedings. Therefore, the Board Resolution of 12.02.2008, filed under the Statement of Respondent [in the present Proceeding] is signed by the other Board Directors, is a valid authorization, in view of the observation made in the above Order of the Hon'ble Supreme Court; which is followed by another Board Resolution dated 3-09-2018 [at page 669 of the Court File] bearing Signatures of the other Board Members, reaffirming the authorization earlier given to Mst. Naheed Abid to pursue litigation and

present Court Cases, Consequently, the issue of maintainability as raised by the Petitioners' Counsel, in view of the above discussion, is not tenable.

12. The Petitioners of the above Civil Petitions then preferred Civil Review Petitions No.8-K to 10-K of 2009 (at page-677 of the Court File), in particular on the findings of the Hon'ble Supreme Court with regard to authorization of present Respondent. In Review Proceeding also the Hon'ble Supreme Court maintained its earlier Decisions by holding that the Ejectment Petition [Rent Cases] was competently filed.

13. With the above Judgment of the Hon'ble Supreme Court, the earlier Decisions of this Court in the Constitution Petitions No.267 to 269 of 2007 are also filed, which were maintained by the above Judgment of the Apex Court. Perusal of these Decisions show that the same Respondent filed Cases against its other Tenants in occupation of different Demised Premises on the Ground Floor and the existing rate of rent was increased to **Rs.9/- per square ft.**, which was maintained by this Court and ultimately by the Hon'ble Supreme Court (as already stated in the preceding Paragraphs).

14. Both the impugned Decisions have been considered. The learned Rent Controller has decided the matter in favour of Respondent, *inter alia*, on the ground that the Petitioner(s) failed to lead the evidence and did not cross-examine the Respondent and hence her testimony was not challenged and consequently was accepted as conclusive piece of evidence, resulting in enhancement of rentals per month. Whereas, the Appellate Court, being the Court of final facts, has appraised the evidence through its exhaustive discussion.

15. The Appellate Court has reproduced the testimony of Respondent's Representative (Ms. Naheed Abid), in particular those assertions justifying the enhancement of rent. Most important is Paragraph-20 of her Affidavit-in-Evidence, in which Respondent Witness has given details of the other

Tenants in the Subject Building, who have increased the monthly rents on the request of Respondent, after considering the factors and work done in the Subject Building, justifying the rent enhancement, as stated in her Rent Application (*supra*). It would be advantageous to reproduce Paragraph-13 of the impugned Judgment of the learned Appellate Court_

“13. From perusal of such evidence given by the witness on Oath. It couches to the common sense that the value of the property has been increased at a high rate since 1985 and so as the taxes other charges and repair charges have also been increased tremendously. Besides this, the applicant’s witness also stated in her affidavit-in-evidence on Oath that the rate of rent is higher than the rate of rent being paid by the appellant/opponent and in this regard she has specifically stated with facts on Oath at para-20 in her affidavit in evidence, which is re-produced as under:-

“That there are many tenants who have been inspired with the development work of the said building carried out by applicant and have honored the request of the applicant they are not only paying their monthly rents at the rate, which was fixed for their respective floors vide order dated 04.12.1999 of the Hon’ble Court of IXth Senior Civil Judge and Rent Controller, Karachi South, but they had also paid the balance of rent regarding the difference accordingly, after fixation of rent w.e.f. November, 1997 they are paying 10% increase in their rents per annum w.e.f. November, 2000 and November, 2001, it has to be noted that in the said order dated 04.12.1999, it is clearly mentioned that the rate of rent is excluding the maintenance charges but the applicant has bifurcated this rent and issuing two receipts, 50% of which is as the Rent of the rented premises and the remaining 50% as the maintenance expenses, some of those tenants who are paying their monthly rents/maintenance as under:-

- A) *Mr. Muhammad Intekhab Alam @ 15.87 per sq. feet, for shop No.3 on ground floor.*
- B) *Mr. Muhammad Azeem son of Alim Gul @ Rs:15.75 per sq. feet for cabin No.5 on ground floor.*
- C) *Mr. Khursheed Hafiz @ Rs:15.87 per sq. feet for shop No.14-15 on ground floor,*

- D) *Mr. Tahira wife of Zulfiqar Multanwala @ 8.8 per sq. feet for 1/54 on first floor.*
- E) *Mr. Muhammad Farooq @ Rs:9.68 per sq. feet for 2/25 on second floor.*
- F) *Mr. Muhammad Yaqoob son of Haji Hussain @ Rs:8.8 per sq. feet for 2/54 on second floor.*
- G) *Mr. Muhammad Idrees & Co., @ Rs:7.26 per sq. feet 3/48 on third floor.*
- H) *Mr. Narayan Rana and Mr. Shahid Aziz Memon @ Rs:6.6 per sq. feet for 4/18 on fourth floor.*
- I) *M/s. Commodities Trading Company @ Rs:6.6 per sq feet for 4/30 on fourth floor.*
- J) *M/s. Simba Enterprises @ Rs:7.26 per sq. feet for 4/30 on fourth floor.*
- K) *Mr. Zakir Hussain & others @ Rs:7.26 per sq. feet for 5/52 on fifth floor.*
- L) *Mr. Shaikh Tariq Rafiq @ Rs:8.8 per sq. feet for 6/21 on six floor.*
- M) *M/s. Adamjee Insurance Co. Limited @ Rs:8.78 per sq feet for 6/29, 30, 37, 38 and 39 on sixth floor.”*

16. In those Cases where the evidence is led, the Record is considered. Findings of both the learned Rent Controller and the Appellate Court are correct, based on the appraisal of the evidence of the Parties. The Petitioners [being the Opponents] in their evidence could not prove their stance, in particular, pertaining to their occupation of respective Units / Tenements on the basis of ‘Pugri’[goodwill], non-availability of the amenities and payment of enhanced rentals by the other Tenants in the Subject Building.

17. The contention of the Petitioners’ Counsel about non affording the ample opportunity is untenable and contrary to record, *inter alia*, as undisputedly, in earlier round of litigation when the matters were decided *ex-parte*, against the Petitioners, then the same were remanded, and opportunity was given to the Petitioners to contest the matter, but after

filing of the Written Statement, they in fact disappeared. **Secondly**, on the same facts and grounds, already the three Tenants of the Ground Floor remained unsuccessful upto the Honorable Supreme Court [as highlighted above]; which means that **criteria adopted** by the Courts below for determination of Fair Rent in respect of the Subject Building has already been approved by the Apex Court.

18. The Respondent [Landlady] has led the evidence regarding the crucial determining factors for the enhancement of Rent of different Rented Premises in the Subject Building, which assertion of the Respondent gone unchallenged, hence, admitted by the Petitioners [*in those Cases where no evidence was led by the Petitioners, despite ample opportunity*]; and, in the Rent Cases where the evidence was led by both the Parties, the conclusion whereof is already discussed in the foregoing Paragraphs, that is, it is against the Petitioners.

19. In this regard, a recent reported Decision of the Honorable Supreme Court handed down in the case of ***Akhtar Kamran*** (deceased) through *legal heirs* versus ***Parvez Ahmed and others*** reported in 2023 SCMR-1147, is relevant. In a Petition for fixation of fair rent filed by the respondent (of the reported case), monthly rent was increased from Rs.11,401/- (*rupees eleven thousand four hundred only*) per month to Rs.97,974.47 (*rupees ninety seven thousand nine hundred seventy four and forty seven paisa only*) per month. While maintaining the Decision of the Courts below, it was observed by the Honourable Supreme Court, that rise in cost of construction, repair charges, labour, taxes, etc. are the factors need not to be proved through documentary evidence and the same also cannot be ignored while determining the fair rent.

20. The Appellate Court has also taken into account the earlier Decisions concerning the other Tenants in the Subject Building, which was

throughout decided in favour of the present Respondent and has been mentioned in the foregoing Paragraphs.

21. No illegality is successfully pointed out by the Petitioners' Counsel, justifying interference in the Impugned Decisions in this Constitutional Jurisdiction.

22. Consequently, all these Constitution Petitions are dismissed along with pending application(s), if any. Petitioners are liable to pay their respective rents as fixed by the Courts below along with the arrears [if any].

23. *Adverting to the C.P. No. S-168 of 2014.* This Petition was dismissed for non-prosecution on 29.05.2015, where after Restoration Application was filed on 03.09.2015, which is time barred for two months and five days, hence, an Application under Section 5 of the Limitation Act, is also filed requesting for condonation of delay. This Restoration Application is opposed by the Respondent through her Counter-Affidavit accompanied by the Statement of Rent Account, according to which, lastly the rent was deposited on 04.08.2016. To confirm this fact after reserving this Lis for orders, a fresh Report was called from the concerned Court of learned Rent Controller, which has sent the Report dated 26.03.2024 (in Rent Case No.1388 of 1998 and Ledger No.132 of 2001), confirming that lastly the rent was paid on 04.08.2016.

24. This is unfortunate that on the ground of pendency of present Petition, the rents are not deposited / paid for such a long period (around seven years). This conduct is unreasonable and inappropriate. A person, who seeks equity, should also do equity, but, in the present case, the position is inverse. No plausible ground is agitated by the Petitioners for either condonation of delay in filing Restoration Application or the

restoration of the main Petition. Consequently, these Applications (CMA Nos.6445 and 6446 of 2015) are dismissed.

JUDGE

Karachi.

Dated : 03.04.2024.

M.Javid.P.A.