

ORDER SHEET  
THE HIGH COURT OF SINDH AT KARACHI

C.P No.S-1203 of 2017.

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Date: Order with signature(s) of the Judge(s)  
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Hg/Case.

For Hearing of Main Case.

10<sup>th</sup> October, 2023.

Mr. Adil Rasheed advocate for the Petitioner.  
Respondent No.1 present in person.

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Heard learned counsel for the Petitioner and Respondent in person.  
During arguments when learned counsel for the Petitioner was confronted  
with last para of impugned judgment passed by the appellate court which  
is that:

***“Now I would like to discuss the finding regarding personal bonafide need, the learned trial court has not appreciate the evidence that come on record if gone through the same he should not allow the application on the ground of personal requirement. The Respondent has suppressed the fact that another flat of equal size was lying vacant at the time when she filed the case and the requirement of the Respondent was bonafide she should have not hand over to anybody else after filing of the rent case. The witness i.e. her son had admitted hat in cross examination that at the time when the ejectment case was filed against the opponent another flat which was in front of the premises of eh appellant was lying vacant. The trial court failed to appreciate that there is contradiction between the statement of Respondent as well as her witness i.e. her son. The learned trial court failed to appreciate that Respondent had made misstatement that the flat which was in front of the appellant is occupied by in-laws of her daughter in-laws are not entitled for order of ejectment for the personal use of the landlord.***

***The learned trial court has ignored the findings of our Hon'ble Apex Courts wherein it is clearly mentioned that no case should be decided on technicalities but on merits. In this respect I am also fortified with the case law cited as 2006 SCMR 152, by learned counsel***

**for the appellant in support of his contention reported as:**

**"It is duty of landlord to give plausible and satisfactory ground / explanation for his insistence to occupy a particular premise in preference to occupy any other premises available for occupation and use---Where the landlord instead of providing plausible, satisfactory and cogent grounds for not occupying the premises which had become available for occupation did not even disclose the factum of premises having become vacant, same completely negated his good faith and bonafide ---- Concealment by the landlord of one or more premises having fallen vacant during pendency of the ejection proceedings would reflect adversely on the bonafide of his personal need and good faith and would be detrimental to his case.**

**The contention of Respondent / applicant regarding requirement of tenement for personal bonafide need is not substantiated with evidence. The findings of the learned Rent Controller regarding personal bonafide are also based upon misreading and non-reading of evidence".**

Learned counsel for the Petitioner categorically contends that Taj Bibi left two legal heirs i.e. daughter and son and three residential flats. In one flat her son is residing and in another flat her daughter is residing whereas, in third flat tenant/Respondent No.1 is residing hence, ground for personal bonafide need was rightly declined by the appellate court. Accordingly, this is not a case of warrants interference; consequently, instant petition is dismissed.

M.Zeeshan

JUDGE