

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.S-667 of 2018

Date	Order with Signature of Judge
-------------	--------------------------------------

Mst. Zobra Khatoon*Petitioner*

Versus

District & Sessions Judge Central at Karachi and others.....*Respondents*

Date of hearing :30.05.2025

Date of order :30.05.2025

Mr. Mustafa Safvi, Advocate for the Petitioner.
Ms. Naila Mushtaq, holding brief for Mr. Altaf Hussain, Advocate
for the Respondent.

O R D E R

1. Instant petition has been preferred against the Impugned order dated 30.01.2018 passed in F.R.A. No.97/2017 passed by the learned District Judge, Karachi Central. The said F.R.A. was filed by the Respondent No.3 against the order of the learned III-Rent Controller dated 22.03.2017, passed in Rent Case No.588/2012, which was preferred by the present Petitioner.

2. Brief facts of the case are that the above noted Rent Case was filed by the Petitioner and ejectment was allowed vide order dated 22.03.2017. Thereafter, Respondent No.3 preferred above noted FRA and the same was allowed vide Impugned order. Learned counsel for the Petitioner in this regard has Impugned the conflicting findings of the Courts below.

3. Learned counsel for the Petitioner has stated that the order of the learned Rent Controller is legally sound and in line of the principles of rent law as enunciated by the superior courts. He has further contended that the reason for allowing the above noted FRA, was that the Applicant in the Rent Case (present Petitioner) had died. Further, the name of the son for whom the premises is

required was not mentioned in the rent application preferred by the Petitioner. Learned counsel has stated that otherwise he has made out a case of personal need as his evidence was unrebutted and unshaken during the cross-examination. He has further stated that it is settled principle of law that once the landlord steps into the witness box and the plea of personal need is unrebutted and unshaken, ejection proceedings must follow.

4. Instant petition was filed on 10.03.2018. Thereafter, notices were served on the Respondents. It is evident from the perusal of various order sheets most notably 20.03.2024, 21.08.2024, 21.11.2024, 06.03.2025, 27.03.2025 and 17.04.2025, when counsel for the Respondent failed to appear. Today, brief has been held on behalf of the learned counsel for the Respondent and request is made for adjournment. Such request denied by me for the reason that various opportunities were given to the Respondent to appear as noted in the orders above and no further adjournment is warranted.

5. I have heard the learned counsel for the Petitioner and perused the record. More particularly, examination of the Petitioner, which has correctly been reproduced in the order of the learned Rent Controller. It is evident that the personal bonafide need of the landlord is unshaken and unrebutted, therefore, there is no question of ejection not been allowed. The finding of learned Appellate Court as stated during the arguments of the learned counsel for the Petitioner, is erroneous. It is held that there was no need to give the name of the son for whom the tenement was required. Further, the Petitioner was not obligated to reveal the details of business to be undertaken by the said son. The death of the Petitioner during the pendency of the proceedings would not have any implication on the present proceedings as the vacant possession of the tenement was sought on the ground that the same was required for her son and not herself.

6. The law relating to personal need has been expounded in several judgments. For the present purposes reliance can be placed on the case of ***Shakeel Ahmed & another v. Muhammad Tariq Farogh***¹ wherein it was held as under:-

“6. For seeking eviction of a tenant from the rented shop, the only requirement of law is the proof of his bona fide need by the landlord, which stands discharged the moment he appears in the witness box and makes such statement on oath or in the form of an affidavit-in-evidence as prescribed by law, if it remains unshattered in cross-examination and un-rebutted in the evidence adduced by the opposite party.”

7. In the light of what has been held above, Impugned order is hereby set-aside and Respondent No.3 is directed to vacate the tenement in question within a period of three months from today, i.e. on or before 29.09.2025.

Petition is allowed in the above terms along with listed application.

Judge

Nadeem

¹ 2010 SCMR 1925