

Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI

C.P. No.S-431 of 2024

[Amir v. Mst. Shabana Parveen and others]

Petitioner: Through Syed Kashif Ali, Advocate.

Respondent No.1 Through Muhammad Farooq Khan, Advocate
 Syed Ale Maqbool Rizvi, AAG.

Date of Hg: & Order: 22.10.2025

ARSHAD HUSSAIN KHAN, J. The petitioner-Amir through instant constitutional petition has challenged the order dated **02.04.2024**, passed by II-Additional District Judge, Karachi-Central in **FRA No.51/2023** whereby judgment dated **28.02.2023**, passed by the Rent Controller-XII, Karachi-Central in **Rent Case No.546/2019**, allowing the ejectment application, was upheld and the FRA was dismissed.

2. The brief facts of the case are that respondent No.1/applicant-Mst. Shabana Parveen filed an ejectment application under Section 15 of the Sindh Rented Premises Ordinance, 1979, against the petitioner on the grounds of default in payment of rent and bona fide personal need. The learned Rent Controller, after considering the material available on record, allowed the ejectment application on both counts and directed the petitioner to vacate the demised premises, i.e. Shop No.4, situated on Plot No.1/498, Liaquatabad, Karachi [**demised premises**], within thirty (30) days. The said order was assailed by the petitioner through the aforesaid First Rent Appeal, which was dismissed, affirming the findings of the learned Rent Controller. The petitioner has now invoked the constitutional jurisdiction of this Court, challenging the concurrent findings of the two courts below.

3. Learned counsel for the petitioner contends that the impugned order, passed by the Appellate Court, and the judgment passed by the Rent Controller are erroneous and perverse. It is argued that the impugned order and judgment are non-speaking and have been passed without fulfilling legal requirements and without proper consideration of the evidence available on the record. Learned counsel contended that

the petitioner is tenant of one Sohail and he is regularly paying rent in MRC and no relationship of landlord and tenant exists between the parties, as such, both the decisions of courts below are liable to be set-aside. Per learned counsel, the impugned findings suffer from illegalities and material irregularities, being based on conjectures, surmises, and assumptions rather than on the evidence available on the record. It is further urged that the impugned decisions are vitiated by non-reading and misreading of evidence and are, therefore, void *ab initio* and liable to be set aside.

4. Conversely, learned counsel for respondent No.1 has supported the concurrent findings of the two courts below, contended that the impugned decisions are well-reasoned and based on proper appreciation of the evidence and applicable law. It is argued that the petitioner committed willful default in payment of rent despite repeated demands and failed to produce any cogent material in defence. It is further submitted that the respondent No.1 fully established her *bona fide* personal requirement for the demised premises through oral and documentary evidence, which remained unshaken in the cross-examination. Learned counsel maintains that both the courts below have recorded concurrent findings of fact after due consideration of the record, and no illegality, irregularity, or jurisdictional defect has been pointed out warranting interference in the constitutional jurisdiction of this Court. Accordingly, he has prayed for dismissal of the petition.

5. Heard learned counsel for the parties and perused the record carefully.

6. Upon consideration of the arguments advanced and examination of the material on record, the contentions raised on behalf of the petitioner do not appear to have any convincing force. The allegations of misreading and non-reading of evidence are general in nature and unsupported by any specific reference to the record. The petitioner has failed to demonstrate how the impugned decisions are vitiated by any illegality or material irregularity. On the other hand, the respondent has successfully shown that the petitioner willfully and deliberately defaulted in payment of rent and that the premises are required *bona fide* for her personal use. The submissions made on behalf of

respondent No.1 carry weight and find support from the evidence on record.

7. A perusal of the order passed by the learned Rent Controller reflects that the eviction application was filed by respondent No.1 on the grounds of default in payment of rent and *bona fide* personal need. Upon appraisal of the evidence led by both sides, the Rent Controller concluded that respondent No.1 had successfully proved her case on both counts. Consequently, the ejectment application was allowed and the petitioner was directed to vacate the demised premises within thirty (30) days. The said findings were thereafter assailed before the Appellate Court, which, upon re-examination of the record, upheld the order of the Rent Controller by assigning detailed and cogent reasons.

8. The jurisdiction under Article 199 of the Constitution is discretionary and aimed at promoting justice, not causing injustice. It is not an appellate forum but limited to identifying any manifest illegality in the impugned order. Where subordinate courts have exercised their discretion properly and on sound principles, the supervisory court should not interfere unless the discretion is contrary to law or established usage. In this case, no manifest illegality, jurisdictional defect, or abuse of discretion has been shown that would justify interference by this Court.

9. It is also a well settled principle of law that the High Court in exercise of its constitutional jurisdiction is not supposed to interfere in the findings on the controversial question of facts, even if such findings are erroneous. The scope of the judicial review of the High Court under Article 199 of the Constitution in such cases, is limited to the extent of mis-reading or non-reading of evidence or if the findings are based on evidence which may cause miscarriage of justice but it is not proper for this Court to disturb the findings of facts through reappraisal of evidence in writ jurisdiction or exercise this jurisdiction as substitute of revision or appeal. The Supreme Court of Pakistan in the case of *Farhat Jabeen v. Muhammad Safdar and others* [2011 SCMR 1073] has held as under:-

"Heard. From the impugned judgment of the learned High Court, it is eminently clear that the evidence of the respondent side was only considered and was made the basis of setting

aside the concurrent finding of facts recorded by the two courts of fact; whereas the evidence of the appellant was not adverted to at all, touched upon or taken into account, this is a serious illegality committed by the High Court because it is settled rule by now that interference in the findings of facts concurrently arrived at by the courts, should not be lightly made, merely for the reason that another conclusion shall be possibly drawn, on the reappraisal of the evidence; rather interference is restricted to the cases of misreading and non-reading of material evidence which has bearing on the fate of the case."

10. In the instant case, the petitioner disputed the existence of a landlord–tenant relationship and claimed that he is tenant of one Sohail in respect of Shop No.1 instead of Shop No.4. It is also a settled law that the tenant is duty-bound to establish prima facie with strong evidence that the relationship between the landlord and tenant does not exist between the parties. However, the petitioner has failed to produce any Rent Agreement between him and Sohail before the Trial Court, so also he during his cross-examination, admitted that in rent case No.448/2015, shop No.1 has been gotten vacated from Adil in rent execution No.12/2017 and that said Sohail Ahmed has not issued him any notice in respect of Shop No.1, which negates his claim that he is a tenant of Shop No.1, instead of Shop No.4, as such, the learned Trial Court rightly held that relationship of landlord and tenant exists between the applicant (respondent No.1) and the opponent (petitioner).

11. As regards the issue of default in payment of rent, the petitioner claimed that he is regularly paying the monthly rent in favour of the landlord in M.R.C. but on the other hand he himself asserted that the demised premises as Shop No.1 instead of Shop No.4 but the petitioner has miserably failed to establish before the Trial Court that he is not tenant of the respondent No.1, as such, any payments of rent allegedly made to Sohail in M.R.C. are not helpful for the petitioner and he has failed to produce any receipt of payment of rent to the respondent No.1-applicant either before the Trial Court or before this Court therefore, the learned Trial Court was of the view that the petitioner has committed willful and deliberate default in payment of rent to the respondent No.1.

12. Insofar as personal *bonafide need* of the premises is concerned, the respondent No.1/landlord, being the owner of the rented premises, possesses a fundamental right to reclaim possession of her property for her own use and benefit, rather than being compelled to allow it to

remain in the occupation of a tenant. Under the Sindh Rented Premises Ordinance, 1979, this right is explicitly recognized, enabling a landlord to seek eviction of a tenant where the premises are required for the landlord's personal *bona fide* use. This statutory provision ensures that the owner is not deprived of the opportunity to utilize her property in accordance with her genuine need.

13. It is a well-settled principle of law that once a landlord enters the witness box and, on oath, asserts a *bona fide* personal requirement, the burden shifts to the tenant to demonstrate that such need is neither genuine nor made in good faith. In the present case, no credible or cogent evidence has been produced by the opponent to rebut the landlord's sworn statement or to establish that the asserted need was illusory or tainted with mala fides. The Supreme Court of Pakistan in the case of *Muhammad Shoaib Alam and others v. Muhammad Iqbal* [2000 SCMR 903], inter alia, held that a landlord's statement on oath, if consistent with the pleadings and unshaken during cross-examination or unrebutted by the tenant, is sufficient to establish *bona fide* requirement. The same view was affirmed in *Juma Sher v. Sabz Ali* [1997 SCMR 1062] and *Messrs Al-Karam Travels (Pvt.) Ltd. v. East West Insurance Co. Ltd.* [2001 SCMR 688].

14. In the instant matter both the courts below have recorded concurrent findings of fact, and the petitioner has failed to bring on record any material to demonstrate that such findings are either perverse, suffer from a jurisdictional defect, or are the result of misreading or non-reading of evidence. Learned counsel for the petitioner is unable to point out any error of law or procedural irregularity in the passing of the impugned judgment/order. It is a well-settled principle of law that concurrent findings of fact recorded by the courts below are not to be interfered with in constitutional jurisdiction, except in extraordinary circumstances where patent illegality, perversity, or a jurisdictional defect is demonstrated. No such circumstance has been shown to exist in the present case.

15. In view of the facts and circumstances of the case as discussed above, the instant petition, being devoid of merit, is dismissed along with pending application(s).

JUDGE

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