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**JUDGMENT SHEET**

**LAHORE HIGH COURT LAHORE**

**JUDICIAL DEPARTMENT**

Writ Petition No.38539 of 2023

Maqsood Ahmad Vs. Additional District Judge, etc.

**J U D G M E N T**

<b>Date of Hearing:</b>	14.05.2024
<b>Petitioner by:</b>	Hafiz Rehman Aziz, Advocate.
<b>Respondent No.3 by:</b>	Mr. Salah-ud-Din Siddiqui, Advocate.

**Anwaar Hussain, J.** Through this single judgment, present as well as connected constitutional petition bearing W.P. No.69876/2023 are being simultaneously decided, as common question of law and facts are involved, and both the petitions have laid challenge to the findings of the Courts below, emanating from the eviction proceedings initiated by respondent No.3, namely, Riasat Ali, (“**respondent**”), who is the petitioner in connected petition.

2. Learned counsel for the petitioner submits that the tenancy between the petitioner and the respondent was valid for a period of 10-years and the eviction was sought on the ground of default and personal need, however, issue in respect of default only was framed, by the Rent Tribunal, and despite the fact that the same could not be proved as *per* the findings of the Appellate Court below, dated 27.05.2023, the petitioner has been directed by the Appellate Court below to vacate the rented premises on the ground that the relationship between the parties has become strained. Adds that such innovative ground for eviction is violative of both the tenancy agreement between the parties as well as the provision of the Punjab Rented Premises Act, 2009 (“**Act**”) as the grounds available for eviction has been stipulated by the legislature in Section 15 thereof, thus, strained relation as a ground of eviction is

alien. Further contends that the respondent was obligated to give concise statement regarding the period for which the arrears were claimed in terms of Section 19(3) of the Act that has not been given and the same is fatal; that the payment of rent from 01.09.2021 to 17.01.2022 is duly acknowledged by the respondent in terms of Exh-R-1; and that the respondent has taken contradictory positions inasmuch as in the eviction petition, default in payment of monthly rent for one year has been alleged without specifying the date of default as also the exact period thereof, whereas, in his appeal preferred against the impugned final order of the Rent Tribunal, default from the outset of the tenancy has been alleged.

3. Conversely, it is the case of the respondent that the document- (Exh.R-1) is a private document, having no evidentiary value and has been wrongly relied upon by the Appellate Court below as an admission on part of the respondent. Adds that even otherwise, default for the period of six months w.e.f. April, 2021 to August, 2021 and February, 2022, which the Rent Tribunal held against the petitioner, has been upended on the basis of presumption as the petitioner side failed to establish that the monthly rent for the said period was paid.

4. Arguments heard. Record perused.

5. Following questions of law require opinion of this Court:

- i. What is the effect of failure on part of an ejectment petitioner to give concise statement in terms of Section 19(3) of the Act regarding the period for which he claims arrears of rent?
- ii. Whether strained and hostile relationship between the landlord and the tenant developed, on account of eviction proceedings initiated by the landlord, is a valid ground for eviction of the tenant, under the Act?

6. The tenancy relationship between the parties as well as the tenancy period of ten years, commencing from 01.09.2020, is admitted. It is also admitted feature of the case that the rented premises was a

vacant plot on which the petitioner has established a Marquee by investing and injecting a substantial amount of capital. When the respondent approached the Rent Tribunal, on 30.03.2022, in para No.3 of the ejectment petition, he stated as under:

- "3- یہ کہ مسئول علیہ درج ذیل وجوہات کی بناء پر موجب بیدخل ہے۔
- i- یہ کہ مسئول علیہ نے کرایہ بابت پلاٹ متذکرہ بالا ایک سال سے ادا نہ کیا ہے۔
- ii- یہ کہ مسئول علیہ کے ذمہ -/12,00,000 روپے واجب الادا ہیں مسئول علیہ ڈیفالٹر کے زمرہ میں آتا ہے۔
- iii- یہ کہ مسئول علیہ نے سائل کی رضامندی کے بغیر پلاٹ متذکرہ بالا کسی دیگر کرایہ دار کو دینے کی کوشش کی جو کہ سائل کی مزاحمت کی وجہ سے ناکام ہوئی۔"

*(Emphasis supplied)*

The petitioner denied the averments contained in the petition. Leave to contest was allowed and following issues were framed:

**"ISSUES**

1. Whether respondent is wilful defaulter in the payment of rent. If so, at what rate and for which period? OPP
2. Whether respondent is liable to eviction from demised premises? OPP
3. Whether the petitioner has got no cause of action? OPR
4. Order."

7. It has been noted that only issue of default was framed to which the respondent side has not laid any challenge. The respondent appeared as AW-1, whereas, one Muhammad Mahad and Muhammad Nawaz appeared as AW-2 and AW-3, respectively, whereas, on behalf of the petitioner, he himself appeared as RW-1, one Nasir Hayat and Nadeem Ghaffar appeared as RW-2 and RW-3, respectively. The Rent Tribunal held that the petitioner has not paid rent from April, 2021 to August, 2021 and February, 2022 and on this ground allowed the eviction petition, whereas, when the appeals were preferred by both sides, the appeal of the respondent was dismissed, whereas, the appeal

of the petitioner was partly allowed and findings of the learned Rent Tribunal determining the arrears of monthly rent from the month of April 2021 to August, 2021 and February, 2022 were set aside.

8. Having above referred factual matrix and evidentiary resume of the case in sight, and before answering the first legal question, it will be appropriate to reproduce Section 19 of the Act that reads as under:

**19. Filing of application.**— (1) An application in respect of a rented premises shall be filed in the Rent Tribunal of the area or the district.

(2) If an application is filed under sub-section (1), the Administrative Special Judge (Rent) of the area or the district may take cognizance of the case or entrust the same to any other Special Judge (Rent).

**(3) An application under sub-section (1) shall contain a concise statement of facts, the relief claimed and shall be accompanied by copies of all relevant documents in possession of the applicant.**

(4) If the application is for eviction of a tenant, the landlord shall submit his affidavit and affidavits of not more than two witnesses along with the eviction application.

*(Emphasis supplied)*

9. The term “concise statement” has not been defined by the Act, however, Order VI, Rule 2 of Code of Civil Procedure, 1908 refers to the term in the following manner:

“Every pleading shall contain, and contain only, a statement in a concise form **of the material facts on which the party pleading relies for his claim or defence**, as the case may be...”

*(Emphasis supplied)*

In common legal parlance, concise statement indicates reciting of facts with precision that forms basis of a claim and/or underlies the accrual of cause of action. The underlying purpose is to simplify the key issues in dispute. Therefore, the concise statement must contain enough details of the dispute to steer the Court’s focus only to the relevant issues making it easier for it to adjudicate. In relation to the eviction

proceedings initiated under the Act, the term concise statement referred in Section 19(3) of the Act, mandates the ejectment petitioner to give the details of the allegation against the respondent and if the allegation of default in payment of monthly rent is made, sufficient details pertaining to the date from which the default occurred as also the claim as on the date of filing of the ejectment petition becomes *sine qua non* of such eviction petition to succeed. In the present case, it is pertinent to note that the respondent in his eviction petition has not given any detail of the period of default of rent, hence, the relevant issue framed was generic in nature. The shifting pleadings of the respondent in the present case present a classic case study revealing the wisdom of legislature as to why it mandated the concise statement of facts to be spelled out in an application under Section 19 of the Act. Had the statutory requirement of concise statement been adhered to, not only the petitioner would have known the averments with exactitude but there would have been also no space for the respondent to take a somersault in appeal as to the period of default. As stated earlier, when the appeal was preferred by the respondent, a ground was taken that the petitioner has not paid the amount of rent from outset of the tenancy i.e., 01.09.2020 to 01.09.2021. This stance, *prima facie*, was taken to cover the *lacuna* of the case inasmuch as in the eviction petition no period was given except for the statement that for one year the rent has not been paid by the petitioner, which, in the absence of specific date of default, would imply the year preceding the filing of the petition. The Appellate Court below rightly appreciated the said aspect of the case, in the judgment dated 27.05.2023, operative part whereof is reproduced hereunder:

“13. Interestingly, the Respondent in paragraph No.3 of his appeal has improved his stance, that Appellant has not paid the amount of rent for the period starting from 01.09.2020 to 01.09.2021. This stance appeared to be afterthought as the same is inconsistent with averments of eviction petition and evidence produced by the Respondent. Further this stance is contradictory to the

admission made by the Respondent in his cross examination with regard to Acknowledgment receipt Exh.R1.”

The true mandate of Section 19(3) of the Act is that it is obligatory for the ejectment petitioner/landlord to narrate all the relevant and necessary details of his claim (of default in the instant case) by elaborating the same with precision (in terms of the date of default and total period of default) and if he fails to do so, he cannot be allowed to improve upon the same through the evidence. Any such improvement would be fatal. In case reported as “ABDUL GHANI through L.Rs. vs Messrs CALTEX OIL PAKISTAN LIMITED” (2010 S C M R 771), where no period of default in payment of rent was mentioned in the ejectment petition, and in the evidence, the case had been set up that the increased annual rent of Rs.299 was not paid by the respondents, the Supreme Court held that the same is an improvement in the course of evidence and hence, the ejectment petitioner, in said case, was not given any credit for the same.

10. Moreover, averment of learned counsel for the respondent that Exh.R-1 is a private document, having no evidentiary value is misconceived. No doubt it is a private document (part of a diary) where factum of receipt of rent has been recorded, however, it contains signatures of the respondent. On a pointed question by this Court, learned counsel has acknowledged the signatures of the respondent. Even otherwise, it belies logic that a person will enter into a tenancy agreement that is to take effect from 01.09.2020 and the tenant (the petitioner) will commit default from the outset and the landlord (the respondent) will not initiate any legal proceedings for a period of about two years while accepting the amount of rent with effect from 01.09.2021 onwards and thereafter file the eviction petition without giving concise statement of the facts (*qua* period of default). This fact has rightly persuaded the Appellate Court below to partially allow the appeal of the petitioner, however, the Appellate Court below also directed the petitioner to vacate the rented premises.

11. This takes me to the second legal question formulated hereinabove. The Appellate Court below erred in directing eviction of the petitioner on the ground that the relationship between the parties has become strained and environment of distrust between the parties has emerged as said reason does not constitute a ground of eviction contemplated under the Act. Section 15 of the Act is the relevant provision that reads as under:

**15. Grounds for eviction.**— A landlord may seek eviction of the tenant if—

- (a) the period of tenancy has expired;
- (b) the tenant has failed to pay or tender the rent within a period of thirty days after the expiry of the period stipulated in section 7;
- (c) the tenant has committed breach of a term or condition of the tenancy agreement;
- (d) the tenant has committed a violation of an obligation under section 13;
- (e) the tenant has used the premises for a purpose which is different from the purpose for which it has been let out; or
- (f) the tenant has sub-let the premises without the prior written consent of the landlord.

Suffice to observe that the Act aims to consolidate and amend the law relating to the relationship of landlord and tenant, *inter alia*, eviction of the tenant(s). The Act envisaged grounds of eviction in term of Section 15 of the Act, quoted hereinabove and the fact that on account of litigation between the parties, their relationship have become strained, is not a valid ground to seek eviction. If such like grounds for eviction are allowed to be transplanted, this would amount to the Courts traversing beyond their domain of statutory adherence. In present case, the Appellate Court below has travelled beyond the legislative wisdom while passing the impugned judgment.

12. Moreover, it is noted that the rented premises was a vacant plot at the time of creation of tenancy, which was developed into a Marquee by the petitioner on the basis of certainty harboured by him that the tenancy is for a period of 10 years and he would not be evicted

therefrom except in situations which warrant his eviction under the tenancy agreement and/or the Act. The specific insertion of duration of 10 years, as a tenancy period, reveals the intention of the parties that the tenancy is for fixed period that is long term. Certainly, the purpose is to ensure that the respondent/landlord would get rent during the said long term tenancy period and the petitioner/tenant would get return on his investment. The premature eviction of the petitioner in the absence of any contractual or statutory violation (default in this case) would not only engender injustice, being detrimental to the commercial interest of the petitioner, but would also undermine the public trust in investment/commercial contracts and their enforcement by the Courts that cannot be allowed by this Court.

13. In view of the preceding discussion, the present petition is **allowed** and direction to the petitioner to vacate the rented premises is set aside whereas the connected petition bearing W.P. No.69876/2023 is **dismissed**. No order as to costs.

(ANWAAR HUSSAIN)  
JUDGE

*Approved for reporting*

*Judge*