

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.3282 of 2019
Mst. Shabina Ejaz
Versus
Fiaz Ahmed and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	23.10.2019	Ms. Zil-e-Huma, Advocate for the petitioner, Ch. Shafique Ahmad Ramay, Advocate for respondent No.1.

This case was heard at length. The eviction petition was allowed primarily on the ground that the respondent No.1/landlord required the rented premises for his personal *bonafide* need and that the petitioner had defaulted in the payment of rent.

2. Learned Rent Controller, vide order dated 19.07.2019, allowed the eviction petition without framing of issue and recording of evidence on the question as to whether there is a default in the payment of rent. Learned Appellate Court while deciding the petitioner's appeal relied on the statement given on behalf of respondent No.1's wife before the learned Civil Court in a separate civil suit that there had been a default of 41 months in the payment of rent.

3. It is well settled that the ground as to the non-payment of rent is a negative fact, and the burden lies on the tenant to prove that the rent was paid and that there was no default. Since the requirement of the law was not complied with, concurrently in allowing the eviction petition therefore, the instant petition is allowed, and the impugned order dated 19.07.2019 passed by the learned Rent Controller as well as judgment dated 14.09.2019 passed by the learned Appellate Court are set-aside, and the matter is remanded to the learned Rent Controller with the direction to

proceed with the eviction petition in accordance with the law and decide the same within a period of three weeks from the date of receipt of the copy of this order.

4. Learned counsel for the petitioner has unequivocally stated that the petitioner shall not deny the right and entitlement of respondent No.1 to file eviction petition and shall file all the rent receipts before the learned Rent Controller.

(MIANGUL HASSAN AURANGZEB)
JUDGE

*Sultan**