

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P No. 1937/2019

Khasta Badshah etc.

Versus

Mst. Nighat Parveen etc.

Petitioners by: Mr. Mujib-ur-Rehman Kiani, Advocate

Respondent No.1: Ms. Shabana Murad Shah, Advocate

Date of Decision: 07.10.2019.

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MOHSIN AKHTAR KAYANI J. Through this writ petition, the petitioners have assailed the concurrent findings of the Courts below, whereby order dated 20.12.2018, passed by learned Rent Controller, Islamabad, in which eviction order has been passed in terms of Section 17 of IRRO, 2001 and the said order was upheld by learned Additional District & Sessions Judge-V (West), Islamabad vide judgment and decree dated 10.04.2019.

2. Learned counsel for the petitioners contends that they are tenants in shops No. 2 and 3, Block 2-A, Bazzar No.1, Ali Market, Sector F-11/1, Islamabad on the basis of oral tenancy and claims that they are paying rent regularly to the respondent No.1 being owner of the said shops. He further contends that respondent No.1 without having any personal bonafide need filed the eviction petition, despite the fact that she is receiving rent higher than the market rates and no default has been committed by the petitioners.

3. Conversely, learned counsel for the respondent No.1 contends that petitioners are the rent defaulters and both the forums below have given the verdict against the petitioners and concurrent findings could not be interfered in constitutional jurisdiction.

4. Arguments heard, record perused.

5. From the perusal of record, it reveals that petitioners are tenants in the leased premises i.e. shops No. 2 and 3, Block 2-A, Bazzar No.1, Ali Market, Sector F-11/1, Islamabad and respondent No.1 had filed eviction petition on the ground of rent default, whereby issue No.1 was framed by the learned Rent Controller and has concluded that the petitioners are rent defaulters for the months of August and September, 2017 and the said findings were upheld by the learned Appellate Court. Similarly, issue No.3 for personal bonafide need has also been declared affirmative in favour of the landlord, even otherwise it is the choice of the landlord to select the property for his personal use among his other properties and it is the sole prerogative of the landlord to utilize any property for his bonafide need as such petitioners have failed to give any justification rather the concurrent findings regarding rent default is visible on record and no valid justification has been given on record by the petitioners. The counsel for the petitioners after arguing the case at length agreed to vacate the premises within the period of thirty (30) days.

6. Besides the above referred position, it is also settled law that when there is no tenancy in existence, the lease has been considered on month to month basis and as such there is no written agreement between the parties, through which petitioners can claim valid period of lease, hence in the light of the principle laid down in judgment reported as **PLD 2018 Supreme Court 81 (Waqar Zafar Bakhtawari and 6 others Vs. Haji Mazhar Hussain Shah and others)**, lease period has been expired and no case is made out on merits.

7. For what has been discussed above, instant petition stands **dismissed** with the direction to the petitioners to vacate the shops No. 2 and 3, Block 2-A, Bazzar No.1, Ali Market, Sector F-11/1, Islamabad within a period of thirty (30) days.

**(MOHSIN AKHTAR KAYANI)
JUDGE**