ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD

JUDICIAL DEPARTMENT

W.P. No. 1292 of 2022

Ijaz Ahmed Vs Shan Ahmed Qureshi, etc..

Serial No. of order of proceedings	Date of order of proceedings	Order with signatures of judge, and that of parties of counsel, where necessary.
1	2	3
	13.04.2022	MianNadeem Aziz Jatala, Advocate.

The instant writ petition is arising out of order, judgment and decree dated 21.12.2021 and 07.04.2022, passed by the Rent Controller and Additional District Judge, Islamabad-West respectively, whereby ejectment petition filed by the respondent No.1 (**"landlord"**) was allowed while the appeal against the orders was dismissed.

2- Precisely, relevant facts are that respondent No.1 (*Shan Ahmad Qureshi*) filed ejectment petition under Section 17 of the Islamabad Rent Restriction Ordinance, 2001 ("**Ordinance 2001"**) for eviction of the petitioner-tenant from Basement No.4-A constructed over plot No.08-A, Pothohar Plaza, Blue Area, Fazal-e-Haq Road, Islamabad (**rented premises**) on the ground that he purchased the rented premises from Ch. Tariq Mehmood vide registered sale deed No. 3867, dated 29.06.2021. The previous owner rented out the premises to the petitioner vide lease agreement dated 01.03.2016 for a period of three years i.e. 01.03.2016 to 28.02.2019; that the tenure of the lease agreement stood expired and after stepping into the shoes of the previous owner, respondent No.1 asked the petitioner to vacate the rented premises and also served him with due notice but to no avail which led to filing of the ejectment petition.

2- In response to notice, petitioner entered appearance and filed written reply wherein he admitted tenancy and the lease agreement. On the expiry of lease agreement, petitioner has taken the stance, *as reveals through Para 3 of*

reply to facts of the written reply that the owner has extended the tenancy verbally up till 31 December 2023.

3- After submission of written reply, the learned Rent Controller heard the arguments of the parties to determine the tentative rent in terms of Section 17(8) the Ordinance 2001 and expiry of the lease agreement.

4- Vide order-in-original dated 21.12.2021, the learned Rent Controller came to the conclusion that the lease agreement has since expired which is a legally acknowledged ground for eviction of the tenant by placing reliance upon the judgment of the Hon'ble apex Court reported as PLD 2018 SC 81. The principle laid down in the judgment ibid holds that without ***express consent*** of the landlord to extend the tenancy period, the tenant shall be guilty of having infringed the conditions of tenancy and thus liable to be evicted in terms of Section 17(2)(ii)(b) of the Ordinance, 2001.

5- The findings of the learned Rent Controller were upheld by the learned Appellate Court, hence instant writ petition.

6- Heard. Record perused.

7- The relationship of landlord and tenant under the lease agreement that already stood expired are the admitted facts. The petitioner asserts that the said lease agreement was verbally extended by the previous owner but he failed to advance the details of the said verbal extension. The pre-requisite for asserting claim of extension of lease agreement is the **"*express consent*",** which should be positive, direct, and unequivocal, requiring no inference or implication to supply into its meaning. Mere an oral assertion cannot be termed "*express consent*" and cannot be made basis to hold the tenancy valid under the lease agreement that already stood expired. In the light of the law laid down by the Hon'ble Apex Court in the case of **Waqar Zafar Bakhtawari** (PLD 2018 SC 81) the tenant shall be held guilty in the event of having no express consent of the landlord to extend

tenancy and liable to be evicted in terms of Section 17(2)(ii)(b) of the Ordinance, 2001.

8- In view of above, the impugned orders in the backdrop of facts and the law on the subject referred to by the learned Rent Controller in its order and affirmed by the Appellate Court, are well reasoned and do not call for any interference. Consequently, instant writ petition is accordingly **dismissed in limine**.

(ARBAB MUHAMMAD TAHIR)
JUDGE

A.R.ANSARI*