

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No. D – 2038 of 2023

Date	Order with signature of Judge
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FRESH CASE

1. For orders on Misc. No. 9870/2023.
2. For orders on Misc. No. 9871/2023.
3. For hearing of Main Case.
4. For orders on Misc. No. 9872/2023.

26.04.2023:

Mr. Muhamamd Arif, advocate for the petitioner.

1-4. Through instant petition, petitioner, who claims to be the owner of Plot No. F-16, Block 9. Clifton, Karachi, has expressed his grievance against unauthorized construction by respondent No.5 on the roof top of the subject premises, which according to learned counsel, has been let out to the respondent No.5, however, respondent No.5 is neither making payment of rent nor abiding by the terms of the agreement and making alteration and addition without permission of landlord/petitioner.

Learned counsel for the petitioner was inquired as to whether the petitioner has filed any proceedings of ejectment before the Rent Controller with regard to non-payment of rent or violation of the terms of the rent agreement, in response, he has candidly stated that petitioner has already filed rent proceedings for eviction of respondent No.5 from the subject premises on the above grounds. Learned counsel for the petitioner was further inquired as to whether the petitioner has approached the SBCA Authorities for the purposes of seeking redressal of his grievance with regard to alleged unauthorized illegal construction, in response to which, learned counsel for the petitioner submits that recently petitioner has filed an application before the SBCA pointing out violations.

Keeping in view of hereinabove facts and circumstances of the case, as well as after perusal of the record, it appears that nothing has been produced before the Court to establish that respondent No.5 has started raising unauthorized illegal construction on the roof top of the subject premises, whereas, the photographs annexed alongwith instant petition, show that some green net alongwith wooden bamboos has been erected on the roof top of the subject premises, however, there is not construction either of R.C.C. or permanent in nature is visible in the photographs attached.

We are of the opinion that instant petition under the facts and circumstances of this case, is not maintainable, particularly, when the petitioner has already filed proceedings against the respondent No. 5 before the Rent Controller, and has also approached the SBCA Authorities by pointing out such alleged unauthorized illegal construction by the respondent No.5, if any, on the roof top of subject premises, whereas, SBCA Authorities are at liberty to examine the same in accordance with law.

Accordingly, instant petition stands dismissed in the above terms alongwith listed applications.

JUDGE

JUDGE

A.S.