

Order Sheet

IN THE HIGH COURT OF SINDH, KARACHI

C. P. No. S – 918 of 2023

Date

Order with signature of Judge

Hearing/Priority

- 1.For order on office objection
- 2.For hearing of CMA No.6586/23
- 3.For hearing of main case

20.11.2025

Mr. Muhammad Khalid, advocate for petitioner
Mr. Ehtisham Zia, advocate for respondent
Mr. Muhammad Kamran Khan, AAG

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It is the case of the petitioner that he was tenant of the tenement i.e., Shop No.1, situated at Ground Floor, Muhammad Shah Street, Napier Road, Karachi. He was under the tenancy with landlord Hasan Ali who passed away. Thereafter the tenancy agreement was renewed and the petitioner is under occupation since last many years in the demised premises. One Muhammad Asim/new owner who acquired ownership rights through registered Sale Deed from legal heirs of Hasan Ali, filed rent case against Muft Ali as the demised premises was under the tenancy of previous petitioner. Rent case was allowed vide order dated 19.03.2021 through an exparte judgment. Petitioner came to know about rent proceedings when ejectment notice was served upon the demised premises. He approached to the trial Court and filed an application under section 12(2) CPC which was declined by the trial Court and in revision, the order passed by trial Court was maintained.

Learned counsel for the petitioner contends that the rent proceedings were filed against the petitioner who is in occupation of the demised premises and since the change of ownership, notice under section 18 of the SRPO 1979 was not served upon the petitioner. It appears that the respondent No.1 was under the influence that Muft Ali was in tenancy of the demised premises, therefore, he filed rent proceedings against the said person who never turned up before the trial Court and accordingly, the petitioner was enjoying the demised premises through rent agreement executed by the first owner. Under the law, the respondent No.1 was required to issue notice under section 18 of the SRPO 1979 regarding change of the ownership and he was required to file rent proceedings against the tenant and in absence

of any rent proceedings against the petitioner, he could not be evicted from the demised premises unless he is given an opportunity of fair trial articulates under Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973. Since no rent proceedings were initiated against the petitioner, therefore, ejectment proceedings cannot be held against him who since now is enjoying occupation as tenant in the demised premises. If the respondent No.1 requires ejectment of the petitioner, he may do so by instituting appropriate proceedings against him and earlier proceedings shall not affect tenancy rights of the petitioner in any case. Since the rent case was not filed against the petitioner, therefore, the orders passed by the Courts below are not in accordance with law.

This petition is, therefore, allowed. The judgment dated 08.09.2023 in FRA No.144 of 2023 passed by the Appellate Court and that of Rent Controller passed in Rent Case No.918/2022 are set aside. The rent case is dismissed. The respondent No.1 shall be at liberty to institute fresh rent proceedings as prescribed under the Sindh Rented Premises Ordinance, 1979. The rent proceedings initiated through the Executing Court shall not defeat the tenancy rights of the petitioner in any manner.

J U D G E

Ashraf