

## IN THE HIGH COURT OF SINDH, KARACHI

C.P No.S-766 of 2016  
&  
C.P No.S-1354 of 2015

Adil Abbas Rajput  
Versus  
Abida Begum and others

Before: Mr. Justice Zulfiqar Ahmad Khan

Date of Hearing : 29.11.2016  
Date of Announcement : 05.12.2016  
Petitioner : Through Mr. Abdul Sattar Mughal,  
Advocate  
Respondent No.1 : Mr. Imtiaz Ahmed Shaikh, Advocate  
Respondent Nos. 2 &3 : Ms. Yasmin Sultana, State Counsel

### JUDGMENT

**Zulfiqar Ahmad Khan, J.:-** This petition has been filed against the concurrent findings given by the trial Court and the appellate Court, wherein the tenant was ordered to vacate the premises within thirty days. On various occasions this case was heard and interim findings were given in the orders of this Court dated 03.10.2016, 12.11.2016 and 22.11.2016. The only legal point that surfaced during these proceedings was that the Petitioner has a claim to the property in question. As per his assertions, the property was a Benami property and purchased by his step mother (the landlady) from the funds of his late father. It however, is interesting to note that his father expired in 1999; however, the Sale Deed in relation to the property in question is dated 21.10.2009, long after the death of petitioner's father.

2. Be that as it may, the petitioner has already filed a Suit for Administration bearing No.1256 of 2010 in respect of the property in question, which is still pending and no relief has been provided to the petitioner in the case either, notwithstanding that he is not the only legal heir, therefore, can never be entitled to have the property in question given to him in toto.

3. From the material present on the file and that which was brought to the attention of this Court, it was evident that the petitioner was placed in the property in question on mercy grounds, as he was homeless and the landlady used to reside out of country, who had to make frequent visits in relation to a medical treatment through Hakeems in Karachi. It is also evident that there was no Written Rental Agreement and the petitioner hardly paid any rent.

4. Under these circumstances after fully considering the evidence, the trial Court in its 18 paged order came to just conclusion that the relationship of landlady-tenant existed between the parties, a willful default was committed by the petitioner and the property in question was rightly needed for the bonafide need of the landlady, who used to visit Karachi for treatment. This outcome was not reversed at the Appellate forum, where the Court while even took cognizance of the fact that a Civil Suit for Administration was already pending, but gave its findings that such pendency would be of no benefit to the tenant.

5. I while being constrained under Writ Jurisdiction and further by the dictum related to landlord-tenant cases and being guided by the apex Court's judgment reported as 2001 SCMR 338 and the reasoning given by this Court in the cases reported as 2014 YLR 2331 and 2016 PLC (C.S) 1069, do not find any constitutional venue to interfere in the impugned order. The petition is accordingly dismissed, alongwith tagged petition being C.P No.S-1354 of 2015, which had already become infructuous.

JUDGE