

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
C.P No.S-52 of 2016

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Date	Order with signature of Judge
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**Hearing / priority case**

1. For hearing of CMA No.6507/2017 (Stay).
2. For hearing of main case

21.07.2017

Syed Irshad-ur-Rehman advocate for the petitioner  
Ms. Yasmeen Sultana State Counsel on behalf of A.G.Sindh

**1&2.** Syed Irshad-ur-Rehman, learned counsel for the Petitioner has contended that Judgment dated 20.11.2015 passed by the IVth Additional District Judge, Karachi, Central and Order dated 09.09.2014 passed by the learned VIth Rent Controller, Karachi, Central are full of errors, based on misreading and non-reading of evidence; that the findings of the learned Courts below are arbitrary and perverse; that the petitioner proved his case that there is malafide on the part of respondents No.1 to 3 regarding personal bonafide need; that aspect of the matter Respondent No 3 could not prove in evidence but no finding has been given nor has been discussed in the impugned orders ; that both the Courts below failed to appreciate that the Respondents No.1 to 3 are only interested in eviction of the petitioner for commercial purposes and that is not bonafide personal need as per law; that the averments of petitioner made in the affidavit in evidence were not challenged in cross-examination which amounts admission on their part therefore eviction order is nullity in the eyes of law; that both the learned Courts failed to appreciate this aspects of the matter; that petitioner’s application under Order VI Rule 17 CPC for amendment of

written statement to bring on record the true facts of letting out the subject premises / shops in the same building to same tenants on higher rent after obtaining eviction order in Rent Case No.135/2010, 136/2010, 137/2010 and 139./2010 and that aspect of the matter was ignored and petitioner was not allowed to amend his written statement to prove that assertion which has highly prejudiced the case of petitioner; that the Respondent No 1 to 3 suppressed the material facts from the learned trial court in order to get rid of the petitioner from the subject premises on false plea of demolition of the entire building, consisted of shops situated on the suit plot to construct multistory building thereon; that the learned Courts below failed to take notice that Respondents No.1 to 3 need the subject premises for the personal requirements for starting a big and well equipped super store. Per learned counsel this is hardly a ground to order for eviction of the petitioner from the subject premises; that the Respondent No.3 in his cross examination has refused to accept the documentary evidence available on Court record of MRC No.412/2017 and the notice of that MRC were received by the wife of the Respondent No.1 and by the respondent No.3 personally; that the learned Vith Rent Controller, Karachi, Central illegally not allowed the petitioner to Exhibit the photocopy of Annexure O-3 and newspaper advertisement Annexure O-5 in evidence; that petitioner filed suit No.272/2007 for permanent injunction in which the Respondents No.1 to 3 had given undertaking not to dispossess the petitioner from the subject premises without due process of law; that the Respondents No.1 to 3 have no genuine and bonafide need / requirement of the rented premises in good faith; that petitioner is regular in payment of rent and has not committed any default as alleged; that rent for the month of March and April 2007 was

paid on 01.02.2007; that petitioner is not in arrears of rent of Rs.119,590/- as alleged. He lastly prays for suspension of execution proceedings. Per learned counsel the same have been recently initiated by the learned executing court and at any time petitioner may be evicted from the subject premises. In support of his contention learned counsel for the petitioner has relied upon the case of Mst. Noor Jahan Begum V. Syed Mujtaba Ali Naqvi (1991 SCMR 2300), Haji Ahmed v. Muhammad Ilyas (2001 MLC 1225), Mst. Zarina and others v. Syeda Fatima Bi (PLD 1995 Karachi 388), Muhammad Yasin v. Shabbir Ahmed (1985 CLC 2111), Abdul Hameed v. Muhammad Shah Khan (1992 MLD 335), and Iqbal Book Depot and others v. Khatib Ahmed and others (2001 SCMR 1197).

The contentions raised require consideration. Let notice be repeated upon the Respondent No.1 to 3. In the meanwhile, petitioner may not be evicted from the subject premises till the next date of hearing. Office is directed to fix this matter on 09.08.2017 as per roster.

**JUDGE**