

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P No.S-639 of 2010

Date Order with signature of Judge

Present: Mr. Justice Nazar Akbar

Petitioner : Abrar Hussain since deceased through
Mansoor Hussain.
Through Mr. Khaleeq Ahmed, Advocate.

Respondent No.1 : VIIIth ADJ South at Karachi. (Nemo).

Respondent No.2 : Abdul Ghani through his LRs.
Mst. Zenat Begum & others (Nemo).

Date of hearing : **27.9.2017**

Date of decision : **24.11.2017**

J U D G M E N T

NAZAR AKBAR, J:- By this order, I intend to dispose of an application under Section 153 CPC read with Section 151 CPC [CMA No.6398/2017] filed by the advocate for the petitioner on **10.06.2017**, wherein the petitioner has prayed for recalling the order dated **27.3.2017**, whereby the instant petition was dismissed as not pressed by the learned counsel for the petitioner. However, it was placed in Court for orders on **03.7.2017**.

2. This application is not supported by an affidavit of the petitioner, though in the second line of the application it is stated that it is **“prayed on behalf of the petitioner”**. The counsel for the petitioner has filed his own affidavit in support of the application. Therefore, learned counsel was directed to satisfy the Court that how this application is maintainable since it was not supported with an affidavit of the petitioner. He contended that since this is an issue

between him (the counsel) and the Court that he has not made statement for not pressing this petition and the Court, instead of passing an order on the argument advanced by him, has wrongly ordered that this petition is dismissed as not pressed. However, when directed to call his client in Court, he informed the Court that his client is already dead. It simply mean that the application was **not** filed on **“behalf of the petitioner”** as falsely stated by him and supported by his own affidavit on oath. Consequently, he was directed to produce death certificate and details of legal heirs of deceased **Mansoor Hussain**, who had filed the instant petition against the dismissal of **FRA No.747/2001**. On **12.7.2017** the learned counsel without realizing his own past conduct and legal position, filed the following documents:-

- i. Death certificate of petitioner **Mansoor Hussain** issued by National Institute of Cardiovascular Diseases (**NICD**) showing **24.11.2012** the date of his death.
- ii. Photocopy of page from register of Paposnagar Graveyard.
- iii. Paper book of CPLA filed by him.
- iv. He has also filed family tree registration certificate of deceased **Mehmood Hussain** who died in 2006.

He informed the Court that **Mansoor Hussain’s** death certificate from KMC is not available with his widow and he introduced four strangers claiming to be sons of deceased **Zahid Hussain** and one of them has filed a formal affidavit stating therein that Mr. Khaleeq Ahmed, advocate had informed him (Mr. Raheel, though he was never client of Mr. Khaleeq Ahmed Advocate) sometime in April, 2017 through his cousin Mr. Mohsin Mobin, advocate that this petition has been dismissed.

3. I have heard learned counsel for the petitioner. In his arguments he has only reiterated the contents of his application. He

has neither referred to any provision of Law nor relied on any case-law in support of his contentions and the application. In his personal affidavit in support of application, learned counsel has stated in **para-5** that he has argued three constitution petitions on **27.3.2017** and the order of dismissal was announced in open Court and as such neither the deponent (Mr. Khaleeq Ahmed, advocate) made statement nor any order for dismissal being not pressed was announced on 27.3.2017. In **para-6** of his affidavit, he has stated that on **11.4.2017** he obtained certified copy of the order and in all petitions same order was issued, therefore, a civil petition was filed before the Hon'ble Supreme Court of Pakistan.

4. Mr. Khaleeq Ahmed, Advocate has further stated in **para-7** of his affidavit that he was shocked when the Judicial Assistant of Hon'ble Supreme Court of Pakistan returned the paper books with the objection dated **30.5.2017** that ***"no order of instant petition was filed"*** and therefore, on **01.6.2017** the learned counsel again obtained certified copy of the order in the instant petition and he was again shocked when he read over the orders wherein it was mentioned that he did not press instant petition. He has also stated in his affidavit that it was either due to some error or otherwise he has not made this statement for not pressing this petition and ***"due to omission my reputation as on stake"***. Learned counsel in **para-9** has declared that there is no need of filing affidavit of petitioner and his legal heirs. The counsel himself has become litigant as neither his client was alive nor his legal heirs had ever engaged him to prosecute C.P No.S-639/2010 since **2012** when the petitioner had died. Therefore, in para-9, learned counsel again made a deceptive statement on oath as the petitioner and legal heirs were before the

Court and capable to file affidavit but they are not required under the Law to file the same.

5. The Issues raised by Mr. Khaleeq Ahmed, advocate in the application and his personal affidavit which need to be addressed by the Court can be summarized in the following three propositions:-

1. That **his reputation is at stake on account of error of the Court** in dismissing the petition as “not pressed”, though according to the learned counsel he had argued this petition, too.
2. That on **27.3.2017** he had argued the case in C.P Nos.S- C.P No.453/2010 and 454/2010 and **same order was required to be passed by the Court**, which was passed in C.P No.453/2010 and 454/2010 as **it was so mentioned in previous diaries of C.P No.S-639/2010 that “same order as in C.P No.453/2010”**.
3. That it was mistake of copying branch which issued him certified copy showing first title page of C.P No.639/2010 (instant petition) and supplied copy of order passed in C.P Nos.453 & 454/2010.

6. My findings on the above propositions are as follows:-

7. Learned counsel neither in his affidavit, nor at the bar has thrown any light on his (Mr. Khaleeq Ahmed’s) reputation. Nor this Court, in the absence of any credential of his reputation on record, is in a position to comment on the class/quality of his reputation in general and as a lawyer in particular to assess his stake as a result of the order dated **27.3.2017**. However, it is a matter of common knowledge that a lawyer earns a reputation worthy of some value by demonstrating his sincerity and honest conduct both towards his client and towards the Court in administration of justice. An upright lawyer is supposed to be an officer of the Court fairly assisting the Court in dispensing justice and not slave of his client nor greedy to serve him against the Law and facts. He has to contest cases on merit and merit alone. He should adhere to minimum standards of duties

of a lawyer explained in Chapter XII (**Canon of Professional Conduct and Etiquette of Advocates**) of the Legal Practitioners and Bar Councils Rules 1976 framed by the Pakistan Bar Council in exercise of powers conferred by **Section 55** of the Legal Practitioners and Bar Councils Act, 1973.

8. In view of the above facts and the augments advanced as well as written synopsis filed by the learned counsel, I will examine the record & proceedings of the present case to first appreciate what is the possible stake of Mr. Khaleeq Ahmed, Advocate in terms of his **reputation** which he has earned/build/established in the eyes of his client by his sheer hard work, performance and unprecedented conduct in discharge of his duties toward the Court in the case in hand. In this context following facts from the record are worthy of appreciation for an answer to all the three propositions:-

- (a) On **29.5.2010** when the instant constitution petition was filed by Mr. Khaleeq Ahmed, Advocate on behalf of one **Mansoor Hussain**, following office objection was raised by writ branch of High Court.

“The petitioner has to satisfy the Court about his locus standi.”

Mr. Khaleeq Ahmed, Advocate rightly replied the objection that “*Mansoor Hussain (is) statutory tenant being surviving legal heir hence signed petition and its affidavit*”. In fact in his reply he has demonstrated his knowledge of Rent Laws and referred to **Section 2(i)** of **Sindh Rented Premises Ordinance, 1979** (SRPO, 1979) which is reproduced below:-

“Tenant” means **any person who undertakes or is bound to pay rent** as consideration for the possession or occupation of any premises by him or by any other person on his behalf and includes:-

- (i) *any person who continues to be in possession or occupation of the premises after the termination of his tenancy;*
- (ii) **heirs of tenant in possession** or occupation of the premises **after the death of the tenant;** (*Emphasise supplied*).

(b) In view of the above, one can safely conclude that Mr. Khaleeq Ahmed, Advocate knew the provision of **Section 2(i) SRPO, 1979** when he filed the instant petition and on **17.12.2012** he confirmed that he is fully aware of the provisions of **Order III Rule 4 of CPC**, which are as follows:-

1. Appointment of pleader.—(1) **No pleader shall act for any person** in any Court, **unless he has been appointed for the purpose by such person by a document in writing signed by such person** or by his recognized agent by some other person duly authorized by or under a power-of-attorney to make such appointment.
2. **Every such appointment** shall be filed in Court and **shall be deemed to be in force** until determined with the leave of the Court by a writing signed by the client of the pleader as the case may be, and filed in Court, or **until the client or the pleader dies**, or until all proceedings in the suit are ended so far as regards the client.

In obedience to the above provision of Law when Mr. Khaleeq Ahmed, Advocate came to know that on **24.11.2012** his client has died, he realized that with the death of the petitioner, Mansoor Hussain, he ceased to be his lawyer. Therefore, on **17.12.2012** he very rightly requested the Court for time to file proper application. Court order dated **17.12.2012** is reproduced below:-

1. *For Katcha Peshi.*
2. *For hearing of CMA No.2926/2010*

17th December, 2012

Mr. Khaleeq Ahmed, advocate for the petitioner.

*Counsel for the Petitioner requests for grant of sometime as according to him, **the Petitioner has since expired, therefore, he needs some time to file proper application in this***

regard. Interim order passed earlier to continue till the next date of hearing.

However, till date he has **not** filed such an application and without filing power on behalf of **“any person”** in the instant petition Mr. Khaleeq Ahmed, Advocate continued to represent a dead person by himself or through his associate for seeking adjournment.

(c) Not only this, on **28.1.2013** in presence of Mr. Khaleeq Ahmed, Advocate this Court has been pleased to order to repeat notice to respondents No.2 to 14, but he deliberately failed to get the notice issued as he could not pay nominal process fee. Again on **24.7.2013**, in his presence the Court has ordered to **“issue notice through courier service as well as by pasting”**. But the said order was also not complied as the subsequent orders dated **13.8.2013** and **10.11.2014** reflect office note that **“notice could not be issued, cost not paid”**.

(d) Mr. Khaleeq Ahmed, Advocate even earlier on **22.6.2010** himself has assured the Court that he will ensure service of notices on the respondents and his undertaking was noted by the Court in the Order dated **22.6.2010** reproduced below:-

1. For Katcha Peshi
2. For hearing of CMA No.2926/2010

22.6.2010

Mr. Khaleeq Ahmed for petitioner

The learned counsel submits that he will ensure the service of notice by asking his associate or a representative of the petitioner to accompany the bailiff.

The office is directed to repeat the notice for 29.6.2010.

However, as the later diaries of Court confirm, learned counsel instead of sending his associate or representative even stopped paying nominal process fee so notice to the respondents could not be issued.

(e) Then on **29.8.2013** Mr. Khaleeq Ahmed, advocate superseded another Advocate in **C.P Nos.S-453** and 454 of 2010 and after six months on **23.4.2014**, while appearing in **C.P Nos. S-453** and 454 of 2010 and **C.P No.639/2010** was not even listed before the Court, Mr. Khaleeq Ahmed, advocate misguided the Court and obtained an order about the instant petition that it may be tagged alongwith the said petitions. The order dated **23.4.2014** from **C.P No.453/2010** is reproduced below:-

1. *For Katcha Peshi*
2. *For hearing of CMA No.2094/2010*

23.4.2014

*Mr. Khaleeq Ahmed, advocate for the petitioner
Mr. Arif Khan, Advocate for respondent.*

Learned counsel for the petitioner submits that C.P No.639/2010 pending before this Court in which same subject property is involved.

Office is directed to tag C.P No.639/2010 alongwith this petition.

Interim order, if any, passed earlier to continue till the next date of hearing. Adjourned.

(f) Mr. Khaleeq Ahmed, Advocate on **23.4.2014** while appearing in **C.P No.S-453/2010**, misguided the Court since on the said date he was not representing “anyone” in C.P No.S-639/2010 as his client (**Mansoor Hussain**) had already died. Till today neither Mr. Khaleeq Ahmed, Advocate has filed power on behalf of legal heirs of deceased

Mansoor Hussain nor anyone has approached him to claim that as tenant he is “bound to pay rent” and he is “heir of tenant in possession” after the death of tenant Mansoor Hussain (**Section 2(i) of SRPO, 1979** quoted in para-8 above). Moreover, since **28.01.2013** despite Court’s repeated orders notices to the respondents by courier as well as by pasting have not been issued as cost has not been paid by him.

- (g) Mr. Khaleeq Ahmed, Advocate on **23.4.2014** made a mis-statement before the Court in Rent Petition No.453 and 454 of 2010 that in the instant petition “**same subject property is involved**”, though it was not legally and practically possible. In all the three petitions, three different “**tenements**” were involved. In all the three petitions even **rate of rents** was different and in all the three petitions **tenants** and **landlords** were also different. And after the death of his client in the instant petition the facts and circumstances of the instant petition were altogether changed as his client had stopped depositing rent in Court from **February, 2012** almost 9 months before he died in **November, 2012** and nobody has tendered rent after his death. And yet Mr. Khaleeq Ahmed, Advocate claims that he had also argued the instant petition. Or otherwise same orders should have been passed in the instant petition which were passed in the contested petitions, merely because last few diaries of Court on adjournment were that “*same order as order in C.P No.453/2010*”.

9. The facts in para 8(a) to 8(g) above floating on the Court record highlight the honest and dedicated performance of Mr. Khaleeq

Ahmed, Advocate both toward the Court and towards his client Mansoor Hussain right from **29.5.2010** when he filed the instant petition on behalf of **Mansoor Hussain** till his death on **24.11.2012**. And thereafter Mr. Khaleeq Ahmed, Advocate is performing his duty as pleader towards an unknown person as he has not yet been appointed pleader by “**anyone**” in writing to act as pleader in Court in terms of **Order III Rule 4 CPC** quoted in para-8(b) above). Therefore, on **27.3.2017** he had no options except “**not to press**” the instant petition which otherwise should have been dismissed for non-prosecution in **2013** on account of non-payment of cost when the petition was repeatedly listed with office note that “**Notices could not be issued process fee not paid**” on **24.9.2013**, **13.8.2014** and **10.11.2014**.

10. Now I will examine extraordinary hard work and dedication of Mr. Khaleeq Ahmed, Advocate as respected lawyer from **27.3.2017** onwards since his enviable reputation is on stake because of the said orders. In this context following acts and deeds from the record would throw some light on his efforts to protect his hard earned reputation at the bar.

- (i) Reply of Mr. Khaleeq Ahmed, Advocate dated **31.5.2010** to the office objection about locus-standi of petitioner **Mansoor Hussain** confirms in unequivocal terms that Mr. Khaleeq Ahmed, Advocate knew that except **Mansoor Hussain** nobody else was “tenant” of the tenement in question in accordance with **Section 2(i)** of SRPO, 1979. **Zahid Hussain** had died on **27.2.2006** and Mr. Khaleeq Ahmed, Advocate himself has placed his death certificate on record and that is why his legal heirs namely **Mr. Raheel** and others have never approached him to be impleaded in the instant

petition. **Zahid Hussain**'s legal heirs have not filed any application to be impleaded in the **FRA No.747/2001** nor in instant petition even after the death of **Mansoor Hussain** who was a "statutory tenant", therefore, they were not aggrieved by the orders dated **27.3.2017** passed in Rent proceedings after 12 years of death of their father. But for this reason despite his own request to the Court as incorporated in Order dated **17.12.2012** quoted in **para 8(b)** above, Mr. Khaleeq Ahmed, Advocate has not filed power in the instant petition on behalf of Mr. **Raheel** and others. Nor he has moved any application to implead them in the instant case till today when I am writing this order. However, Mr. Khaleeq Ahmed, Advocate has the courage to file Civil Petition for Leave to Appeal to the Hon'ble Supreme Court through these strangers namely **Mr. Raheel** and others, who never claimed to be statutory tenant nor tendered rent in **M.R.C No.1133/2000** in the Court of IX-Rent Controller South, Karachi in which deceased Mansoor Hussain has deposited rent till **February 2012**.

- (ii) Mr. Khaleeq Ahmed, Advocate on **11.4.2017** received certified copies of orders in all the three petitions. Admittedly he was fully aware of death of his client **Mansoor Hussain** since **17.12.2012** who alone has filed **C.P No.S-639/2010**. His other two clients on whose petitions (C.P Nos.S-453 and 454 of 2010) detailed common judgment was passed on **27.3.2017** had instantly taken away their files and certified copies of judgments from Mr. Khaleeq Ahmed, Advocate and engaged another Senior Counsel to file Civil Appeals before the Hon'ble Supreme Court.

- (iii) In view of the above fact Mr. Khaleeq Ahmed, Advocate was left with only one certified copy of the order in constitution petition No.639/2010 in his hands but he had no client to approach Hon'ble Supreme Court. Therefore, Mr. Khaleeq Ahmed, Advocate after five years of death of his client tried to fetch legal heirs of deceased Mansoor Hussain through his friend **Mohsin Mobin, Advocate**. His friend introduced him to one **Mr. Raheel** and after persuading him, he designed his strategy to first innocently approach the Hon'ble Supreme Court. He had knowingly filed an order as impugned order in CP No.S-639/2010 by replacing title page on the certified copy of orders in which neither **CP No.S-639/2010** was mentioned anywhere nor the basic facts of the case of his client such as **rate of rent**, defence of his client that rent for alleged defaulted period was deposited in **M.R.C No.1133/2000** were mentioned.
- (iv) The timing of filing of petition for leave to appeal in Hon'ble Supreme Court reveals his modus operandi. His new clients **Mr. Raheel** and others have signed vakalatnama of AOR in **April, 2017** but Mr. A.S.K Ghori, Advocate on Record filed/presented CPLA on **29.5.2017** whereas in the other two constitution petitions first **CPLA No.287-K** was filed on **02.5.2017** and second **CPLA No.293-K of 2017** was filed on **06.5.2017** by another counsel Mr. Shahenshah Hussain, ASC through Mr. A. Aziz Khan, Advocate on Record. Mr. Khaleeq Ahmed, Advocate presented his petition on **29.5.2017** with a view to get it tagged with the other two CPLAs in the same fashion in which he got the instant petition tagged with the two other petitions on **23.4.2014** in

the High Court. (Order of tagging of CPs is quoted in **para-8(e)** above). But he was caught on the first step. His Paper Book of CPLA in C.P No.639/2010 was instantly returned to his AOR on **30.5.2017** by the Hon'ble Supreme Court office with the following memo:-

I am directed to inform you that the subject petition filed by you is suffering from the following deficiency(s).

1. The impugned order passed on C.P No.S-639/2010 has not been filed with the instant petition.

*You are, therefore, required to do the needful, hence, the **original file alongwith three Paper Books** is returned herewith to you for removing the aforesaid deficiency(s) and thereafter the same may be re-filed within seven days from the date of receipt of this memo, failing which the subsequent/fresh date of submission will be treated its filing date.*

- (v) Mr. Khaleeq Ahmed, Advocate from his own showing has obtained certified copy on **11.4.2017** and he had only one certified copy of order in C.P No.S-639/2010 with him by the time he filed an appeal on **29.5.2017** before the Hon'ble Supreme Court. Therefore, it cannot be believed that he and his AOR had not read anything in the body of certified copy of the order beyond the title page and he had innocently filed the petition for leave to appeal before Hon'ble Supreme Court mistakenly with the incorrect/wrong certified copy of order supplied to him by the copying branch. He must have thoroughly read the contents of the order supplied to him on **11.4.2017** by the copying branch. How is it possible that he failed to appreciate on reading of the order impugned that it did not contain findings on **C.P No.S-639/2010**. Mr. Khaleeq Ahmed, Advocate, Supreme Court and his Advocate on Record had the certified copy of the order with them for

48 days from 11.4.2017 to 29.5.2017 while preparing appeal and what they could not find in the body of the order impugned was instantly noticed by **judicial assistance** within no time and he instantly issued memo dated **30.5.2017** that the impugned judgment passed in C.P No.S-639/2010 has not been filed with the CPLA. In view of the memo of Hon'ble Supreme Court, the frivolous contention of learned counsel that on the three applications for certified copies same orders were supplied to him is a childish excuse to shift the responsibility on Court staff when caught on the doorstep of the Hon'ble Supreme Court.

- (vi) Then to further add insult to the injury he filed the instant application on his own without permission of and impleading legal heirs of his deceased client Mansoor Hussain or on behalf of "anyone" interested in claiming to be the **"tenant"** in terms of **Section 2(i)** of SRPO, 1979. This is patently an illegal act on his part. In the application in hand he has made two insinuating allegations. One against the copying branch of Court and the other against the Court itself that he had argued all the three petitions and the Court has erroneously dismissed it as "not pressed". He wants the Court to "recall order" under **Section 153 CPC** as if the order dated 27.3.2017 was "*error in any proceeding in a suit*". His demand is that same order should have been passed in the instant petition which was passed on the two other petitions. I quote relevant part of para-3 of his affidavit "*and since **19.12.2014** the order in C.P No.453/2010 considered same order in the instant petition as my instant always same in all three petition.*" In

fact Mr. Khaleeq Ahmed, Advocate wants to capitalize on orders dated **23.4.2014** which he has fraudulently obtained with ulterior motive by mis-statement/mis-representation during hearing of C.P No.S-453/2010. His wilful misrepresentation and ulterior motive can easily be gathered from the facts incorporated in **para-8(d) to 8(f)** above and further is unfolded in the following part of this order.

- (vii) On **7.7.2017** during the hearing of instant application Mr. Khaleeq Ahmed, Advocate was directed to file affidavit of legal heir of his deceased client (Mr. Mansoor Hussain) who alone had filed the instant petition and who had died on **24.11.2012**. But instead of legal heir of **Mansoor Hussain**, Mr. Khaleeq Ahmed, Advocate had filed affidavit of one **Raheel** who was neither legal heir of **Mansoor Hussain** nor the said Mr. **Raheel** has deposited rent in **M.R.C No.1133/2000** in the Court of IX-Rent Controller, South, Karachi where the said deceased Mansoor Hussain has been depositing rent till **8.2.2012**. On an enquiry from the Court of Rent Controller through District and Sessions Judge, South Karachi, it has been transpired that since **February, 2012** nobody has deposited rent in **MRC No.1133/2000** though the tenant Mansoor Hussain, (the petitioner) had died in **November, 2012**. The learned Rent Controller has sent copy of **ledger No.309/2000** under his signature and seal dated **15.7.2017** showing non-deposit of Rent in Court since **February 2012**. Mr. Khaleeq Ahmed, Advocate has taken said Mr. Raheel to the Hon'ble Supreme Court knowing well that said Mr. Raheel has never claimed to be

in possession and he has never paid rent and it can easily be gathered from the affidavit of Mr. Raheel.

(viii) The perusal of affidavit of Mr. **Raheel** son of Zahid Hussain filed by Mr. Khaleeq Ahmed, Advocate at his own with a statement on **12.7.2017** contains startling disclosures and Para-2, 3, and 8 of the affidavit are worthy of appreciation to understand Mr. Khaleeq Ahmed, Advocate's character as a lawyer. These paras are reproduced below:-

2. *That the deceased Mansoor Hussain pursuing the rent case in respect of rented premises situated Plot No.LR/24-P, Badshahi Road Off Nishtar Road, Karachi and after demised of my above named uncle **I was unaware regarding the case.***
3. *That in the month of April, 2017 **Mr. Khaleeq Ahmed Advocate informed me through my cousin Mohsin Mobin Advocate that the case was dismissed, therefore, he (Mr. Khaleeq Ahmed Advocate) intend to approach Honourable Supreme Court, therefore, called my uncle Mansoor Hussain, after knowledge of the same I visited at the office of Mr. Khaleeq who asked for death certificate of my uncle Mansoor Hussain which is not available with me and my anti Shamim Perveen.***
8. *That Mr. Khaleeq informed us that according to him once he did not made any statement for not pressing the above petition, **therefore, he could not asked us for filing the affidavit or signatures on the fresh Vakalatnama.***

The contents of above affidavit of **Mr. Raheel** highlight the unprecedented conduct of Mr. Khaleeq Ahmed, Advocate which on the face of it violates code of conduct of advocates as prescribed in the Legal Practitioners and Bar Councils Act, 1973. One can easily notice from the contents of the affidavit that:-

(a) It was Mr. Khaleeq Ahmed, Advocate who has approached Mr. **Raheel** in April, 2017 through his friend Mohsin Mobin, Advocate, a cousin of Mr. Raheel to file an appeal in Hon'ble Supreme Court.

- (b) Mr. Khaleeq Ahmed, Advocate called uncle of Mr. **Raheel** in **April, 2017** though in **December, 2012** he has informed the Court that his client and uncle of Mr. Raheel has expired. (Order of 17.12.2012 is reproduced in para-8(b) above).
- (c) He got an affidavit sworn by **Mr. Raheel** on **11.7.2017** and placed in the file of the instant petition without any legal justification to place it in Court file and without any application on behalf of the deponent to be impleaded as party.
- (d) Mr. Khaleeq Ahmed, Advocate in view of statement of Mr. **Raheel** in **para-8** of the affidavit on oath should not have obtained any signature on fresh vakalatnama for the instant petition, however, he managed a vakalatnama from Mr. Raheel and others which is dated **12.7.2017** and surreptitiously filed it in the office.
- (e) **Mr. Raheel** has never claimed to be the statutory tenant nor he was aware of the rent proceedings. He has never tendered rent in **M.R.C No.1133/2000** in the Court of IX-Rent Controller South, Karachi or to anyone.
- (f) **Mr. Raheel** in his affidavit has not claimed that he is in possession of tenement. In fact he is resident of Flat No.601, Doli Khata, Soldier Bazar, Karachi and therefore, even otherwise he cannot claim to be tenant of the premises at Naster Road on the death of tenant in the said premises. (**Section 2(i)** SRPO, 1979 is already reproduced in para-8(a) above).

(g) On top of all this, Mr. Khaleeq Ahmed, Advocate, has approached the Hon'ble Supreme Court through **Mr. Raheel** and others who were never a party before this Court during the pendency of Rent Petition and even afterwards. Nor said Mr. **Raheel** and others have challenged the dismissal of petition by an order as "**not pressed**" by means of review or otherwise. Rather they have practically refused to be impleaded in the instant petition even on coming to know that the instant petition was dismissed as "**not pressed**" for the simple reason that they have never contacted Mr. Khaleeq Ahmed, Advocate to contest the instant petition on merit for their benefit. (Para-8 of affidavit of Mr. Raheel).

11. The facts on record as discussed in the preceding paragraphs clearly indicate that Mr. Khaleeq Ahmed, Advocate is capable of making false statement on oath. He has repeatedly levelled insinuating allegation on oath against the Court that the Court has not passed order in C.P No.S-639/2010 which too was argued by him. His repeated false assertion on oath against the Court that he had advanced arguments even on the instant petition, in view of above facts, amounts to contempt of Court in the face of the Court. But in **2017** giving a notice of contempt of Court to a lawyer would be a futile exercise. The law of Contempt of Court is not applicable on lawyers. There are several instances of contempt of court cases against the lawyers but none has caused even slightest deterrence to control the frequent misconduct of lawyers in Courts. In many cases of contempt of court after contest they simply tender an apology and the matter ends. In Karachi we have lawyers who have repeatedly faced contempt of Court proceedings. Their cases are even reported in Law Journals but as they were let of on their undertakings and

assurance by leaders of Bar Associations that they will not repeat such conduct, they again do not mind committing contempt of Court in the face of the Court. Even the practice of tendering apology by lawyers in contempt of court case is now obsolete. Now-a-days, lawyers after committing contempt of court do not even accept service of notices of contempt proceedings against them. An example of latest trend is a case of contempt by a Lawyer in Multan Bench of Lahore High Court. He has even refused to appear before the full bench seized of contempt proceedings and even non-bailable warrants were frustrated. Nevertheless, since in my humble view Mr. Khaleeq Ahmed, Advocate is also guilty of professional misconduct, therefore, instead of any contempt proceedings I would prefer to send the case of Mr. Khaleeq Ahmed, Advocated to the Pakistan Bar Council for initiating disciplinary proceedings of professional misconduct against him. I am also conscious of the fact that despite unprecedented increase in the number of incidents of professional misconduct by lawyers, the Bar Councils' disciplinary committees hardly take action on complaints against such lawyers. Be that as it may be,

اگرچہ نیت میں جماعت کی استینوں میں
مجھے ہے حکم اذان، لا الہ الا اللہ

12. The logical conclusion of above discussion is that the instant application (CMA No.6398/2017) filed by Mr. Khaleeq Ahmed, Advocate on his own without any authority from "anyone" to file such an application, is dismissed in the following terms:-

- (i) Pakistan Bar Council is directed to initiate disciplinary proceedings against Mr. Khaleeq Ahmed, Advocate for professional misconduct by treating contents of this order as complaint under **Sub-section 2 of Section 41 of Legal Practitioners and Bar Councils Act, 1973** and refer the

same to the Tribunal for decision in terms of Proviso to **Sub-Section (4) of Section 41** of the Act to the Hon'ble Tribunal of Bar Council established under **Section 42** of the Act. Report of referring the case to the Tribunal may be sent to this Court through MIT of High Court of Sindh at Karachi for perusal in Chamber.

- (ii) That since the respondents have been kept out of proceedings by design as is evident from para-8(d), 8(e) above, the Nazir of this Court is directed to seal the property within **48 hours** bearing a portion of the premises at Sobash Nagar, Topandas, Ali Merchant building on Plot No.LR-9/24-P, IV-C-141/142, Badshahi Road, Opp: Nashtar Road, Karachi in which deceased Mansoor Hussain (petitioner) was tenant and running Glass Work. Thereafter locate the respondents and handover its possession to them after proper verification of the respondents.

13. In view of the above order, (CMA No.6541/2017) has become infructuous, therefore, the same is also dismissed.

14. Copy of this order may also be sent to the Karachi Registry of Hon'ble Supreme Court of Pakistan with reference to its memo dated 30.5.2017 issued by Mr. Faisal Noor, Judicial Assistant and addressed to Mr. A.S.K Ghori, Advocate on Record in CPLA No.NIL/2017 (Abrar Hussain vs. VII ADJ South, Karachi and others).

J U D G E

Dated: 24.11.2017