

ORDER SHEET  
THE HIGH COURT OF SINDH AT KARACHI

C.P No.S-161 of 2022

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Date:           Order with signature(s) of the Judge(s)  
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Fresh Case.

1. For Orders on CMA No.1063/2022.
2. For Orders on CMA No.1063/2022.
3. For Hearing of Main Case.
4. For Orders on CMA No.1063/2022.

21<sup>st</sup> February, 2022.

Mr. Atif Hanif Kashmiri advocate for the petitioner.

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1. Urgency granted.
2. Exemption is granted subject to all just legal exceptions.
- 3&4. Heard and perused. It would be conducive to refer Para-6 of impugned order which is that:

***"6. It is matter of record that the opponent has denied the relationship with applicant as landlord and tenant therefore, the question of relationship if any between the parties does not exist can only be decided by leading the evidence from both parties and at this stage through this type of application the relationship between the parties cannot be decided. Moreover, this court is functioning being the Tribunal of Rent Controller and the scope of Rent Controller is only to decide the Rent Cases in accordance with the provisions of SRPO, 1979 and this court cannot decide the question of title if any between the parties. It is settled by this Hon'ble High Court of Sindh, Karachi that once ejectment application has been filed same cannot be dismissed by any order without recording of evidence. The reliance is placed in case of Javed Mubarak Versus Shamsuddin & 5 Others reported in [1984 CLC 3252 Karachi] wherein the Honourable High Court has held as under:***

***Sindh Rented Premises Ordinance [XVII of 1979---,***

***"...S.19(5)---Ejectment application --- Admission by Rent Controller – Subsequent dismissal without taking evidence for want of locus standi – Validity of such order – Rent Application once admitted, held, could not be***

***dismissed by Rent Controller, who in such case is left with no option but to receive evidence first of applicant and his witnesses and then of respondent and his witnesses as envisaged by S.19(3) of Ordinance and to record finding on each issue as required under sub Section (5) of S.19".***

Perusal of above reflects that learned trial court has rightly dismissed application for summarily dismissal of rent case on issue of relationship on the plea that matter requires evidence. Accordingly, instant petition is disposed of with direction that learned trial court shall frame issue inter-alia with regard to relationship and decide the fate of rent case preferably within three months after receipt of this order.

M.Zeeshan

JUDGE