

IN THE HIGH COURT OF SINDH, AT KARACHI

C.P. No.S-463 of 2013

Date of hearing : 28.08.2013.

Petitioner Friends Optical Services through : Mr. Ch. Muhammad Iqbal, Advocate

Respondent No.1 Dr. Riffat Iqbal through : Mr. Shaikh F.M. Javaid, Advocate.

ORDER

IRFAN SAADAT KHAN, J: This Constitutional Petition has been filed against the order dated 02.04.2013, passed by the learned District Judge, Karachi South, in Civil Transfer Application No.50/2013.

2. Briefly stated the facts of the case are that the respondent No.1 (hereinafter referred to as “the respondent”) was allotted shop No.2, Kamal Manzil, opposite KMC Building, M.A. Jinnah Road, Karachi alongwith other shops by the Evacuee Department, which, according to the learned counsel for the petitioner, was subsequently cancelled and twice the matter went to the Hon’ble Supreme Court of Pakistan and was remanded back for disposal. The petitioner and the respondent have filed counterblast Constitutional Petitions bearing No.104/1995 and 05/1996 against the order dated 21.08.1995, which, according to the learned counsel, are pending adjudication. As per the learned counsel during the pendency of the above petitions, the respondent filed two rent cases bearing No.905/2009 and 906/2009, which are pending before the Rent Controller-IV, Karachi South. The respondent has also filed a rent case bearing No.782/2012, which is also pending before the Rent Controller-VI, Karachi South. In order to avoid conflict of judgments in the pending matters the petitioner moved a transfer application with the request that R&Ps of rent case No.782/2012 be called from the Rent Controller-VI and the same be proceeded before the Rent Controller-IV, where rent cases No.905/2009 and 906/2005 are pending. However, the said application was dismissed by the District Judge, vide order dated 02.04.2013, and it is against this order that the present Constitutional Petition has been filed.

3. Mr. Ch. Muhammad Iqbal, Advocate has appeared on behalf of the petitioner and stated that the learned District Judge was not justified in not transferring the matter, as the application was only given with the sole object to avoid conflicting judgments in the matters pending before the two Rent Controllers, however, the said application was not considered in its true letter and spirit. He, however, frankly conceded that he has confidence in both the Rent Controllers, i.e. Rent Controller-IV and Rent Controller-VI that if the

matters proceed before them, orders in accordance with law would be passed but has only moved that application in order to avoid conflicting judgments. He, therefore, stated that by not allowing the said transfer application a serious prejudice has been caused to the petitioner and since he has no alternative remedy the instant petition has been filed.

4. Mr. Shaikh F.M. Javaid, Advocate has appeared on behalf of the respondent and vehemently opposed the instant petition and stated that when the learned counsel for the petitioner admits that he has full confidence on the Rent Controllers before whom the matters are pending, there is no justification to seek the transfer of the matters only on the ground to avoid conflicting judgments. He, therefore, prayed that the present petition may be dismissed.

5. I have heard both the learned counsel at some length and have perused the record. Without entering into the merits or otherwise of the matters, pending before the Rent Controllers, which issues would be decided in accordance with law, I am of the view that since the learned counsel for the petitioner has candidly conceded that he has full confidence in both the Rent Controllers before whom the matters are pending and has also stated that judgments in accordance with law would be passed by the Rent Controllers, there appears no plausible reason to transfer the matter either to Rent Controller-IV or to Rent Controller-VI before whom the matters are pending, as necessary orders in accordance with law would, as stated by the learned counsel for the petitioner, be passed by the Rent Controllers. All the issues arising in the instant rent cases would, in my opinion, be taken care of by the Rent Controllers before whom the matters are pending and who would decide the matters, in accordance with law, after hearing both the parties.

6. In view of what has been stated above, this Constitutional Petition is found to be devoid of any merit and is hereby dismissed alongwith the pending applications.

JUDGE