

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
C.P No. S-443 of 2015

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Date	Order with signature of Judge
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**Hearing of case.**

**For hearing of main case.**

**17.02.2020**

Mr. Nasir Rizwan Khan, advocate for the petitioner.  
Mr. Jameel Ahmed, advocate for respondent No.3.

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Heard learned counsel for the petitioner. Eviction application filed by the petitioner was allowed, however, same was reversed by the impugned order dated 05.01.2015 and these proceedings was also subject matter property in Suit No.1240 of 1982 for administration of the properties between the legal heirs. That Suit was disposed of on application under Order 23 Rule 3 C.P.C in way of compromise. Relevant paragraph of compromise application signed by the father of the petitioner is that\_

*“That the plaintiff is presently occupying a flat in the said ‘Khalasai Manzil’ being Room No.5, Second Floor, which, it is hereby agreed between the plaintiff and the defendant, shall remain the peaceful possession of the plaintiff and the Defendant No.1 shall not claim any rent from him neither he shall be entitled to get the said flat vacated from the plaintiff. However, if the plaintiff at any time lets out the said flat to any other person, the defendant No.1 shall be entitled to realize the rent from the new tenant.”*

At this juncture, learned counsel for the petitioner contends that though the respondent is uncle of the petitioner and there was an understanding and compromise between the father of the petitioner and other sharers including respondent No.3; that compromise application was filed in referred Suit, whereby, father of the petitioner allowed respondent No.3 in terms of compromise to be in possession without any rent, however, there was condition that in case he will let out the property, the petitioner would be competent to charge the rent. Admittedly, respondent No.3 is still residing in the property in question, petitioner after death of his father being owner intends to evict respondent No.3 with the plea that compromise is not binding on her. This reflects that there is no relationship between the petitioner and respondent No.3 as tenant and landlord.

Accordingly, instant petition is dismissed. Petitioner would be competent to file a fresh independent Suit, if so permissible, under the law.

**J U D G E**