

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Date _____ Order with signature of Judge _____

CP.No.S-162 of 2020

1. For hearing of CMA No.755 /2020 (Stay)
2. For hearing of main case.

CP.No.S-163 of 2020

1. For orders on office objection as at "A",
2. For hearing of CMA No.758 /2020 (Stay)
3. For hearing of main case.

CP.No.S-164 of 2020

1. For orders on office objection as at "A",
2. For hearing of CMA No.761 /2020 (Stay)
3. For hearing of main case.

12th November 2020

Mr. Umar Hayat Sandhu, advocate for petitioners.
Mr. Pervez Ahmed Mastoi, Asst. A.G. Sindh.

Heard learned counsel for the petitioners as well as Asst. A.G. Sindh.

At the outset, Impugned order is that:-

"1. Heard both the parties and perused the record.

2. The applicant through this application U/s 16(1) of Sindh Rented Premises Ordinance 1979 (SRPO) has prayed that the opponents may be directed to deposit arrears of rent from 06-06-2015 at the rate of Rs.20,00/- per month & further monthly rent at the same rate being tenant of applicant over case premises as they have defaulted in payment of same. This application is resisted by the learned counsel for the opponent No.1 on the ground that the opponent No.1 is in possession of case premises which was gifted to her by its real owner namely Mst. Toor Bano and he further contended that civil litigation is pending between both the parties in respect of case premises in various courts. He further contended that the opponents are not tenant of applicant but lawful owners of case premises.

3. In aforesaid circumstances, when the title and the relationship of landlord and tenant is disputed between the parties therefore it requires evidence, I find this application meritless hence this application is hereby dismissed with no order as to costs."

Admittedly petitioners preferred application under Section 16 (1) of Sindh Rented Premises Ordinance 1979 (SRPO) that was dismissed on 08.04.2017, thus he challenged the same through FRA and FRA was allowed

and the case was remanded back for decision of rent case after consideration of order passed in SMA.

Petitioners are claiming ownership on the basis of SMA whereas, respondents who are step sister and brothers, who are claiming ownership and they have filed civil suit which is pending for adjudication. Admittedly tenancy agreement is not between the parties and there is no evidence with the petitioners to demonstrate that Mst. Toor Bano or any legal heir received any rent by the respondents. Accordingly, order passed by the Rent Controller on 09.11.2019 is in accordance with law. It would be in the interest of justice to decide eviction application rather decision of an application under Order 16(1) of SRPO. All petitions are dismissed.

JUDGE

Sajid