

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
CP.No.S-805 of 2020

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Date	Order with signature of Judge
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1. For orders on CMANo. 4890 of 2020.
2. For orders on office objection.
3. For orders on CMANo. 4702 of 2020.
4. For hearing of CMA No. 4216 of 2020.
5. For hearing of main case.

**25<sup>th</sup> January 2021**

Mr. Abdul Naeem A. Qureshi, advocate for petitioner.  
Mr. Tasawar Ali Hashmi, advocate for respondent No.1.

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Perusal of the record shows that while deciding the rent case filed by one Abdul Sattar being Partner of Sekha & Co. against M/s. Hussain Dawood & Co. through Arif Dawood, Munaf Dawood and Haroon Dawood, the case was disposed of by the Rent Controller on the plea that possession of the premises has been handed over and received by co-owner Mst. Bilquis Jan Muhammad. Further, it transpires from the judgment that legal character of Mst. Bilquis was discussed by the learned Rent Controller, whereas application filed under order 1 rule 10 CPC by her was dismissed. Besides, while deciding the appeal learned Appellate Court set aside the judgment of the trial Court and allowed the eviction application on the plea that *"If the respondent No.2/opponent Bilquess Jan Muhammad has any claim of being co-owner in the Sekha and Company, she may pursue the remedy before competent Civil Court, if she so desires."*

2. Learned counsel for the petitioner has also referred statement of one Ilyas at this stage whereas that person was not examined by the Rent Controller.

3. In contra, learned counsel for the respondent No.1 contends that Mst. Bilquis has already surrendered her share and there is sufficient evidence that she has no nexus with the issue.

4. Since application under Order 1 rule 10 CPC filed by Mst. Bilquis was dismissed, however, she is the main party in picture, who is not only in possession of the premises but has filed this petition. Besides, trial court recorded findings in favour of Mst. Bilquis and appellate court reversed those findings, hence, that lady was entitled to be heard by both courts below. Accordingly, judicial propriety demands *denovo* trial by joining Mst. Bilquis as respondent and allowing the parties to agitate the issue of relevancy by

adducing the evidence. Consequently, impugned judgments are set aside and case is remanded for *denovo* trial. Petition stands disposed of.

J U D G E

Sajid