

# **HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD**

**C.P No. S-774 of 2022**

[Syed Saeed Mian Qadri versus Nadir Khan & Ors]

**17.10.2022**

Mr. Manzoor Ali Jessar, advocate for petitioner

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## **ORDER**

**ADNAN-UL-KARIM MEMON, J.-** Through this petition, the petitioner has impugned the order dated 05.10.2022 passed by learned Rent Controller, Hyderabad in execution proceedings.

2. Concise facts of the matter are that respondent No.1 filed Rent Application No.20 of 2021 against Jannat Gul and others before learned Rent Controller-IV Hyderabad in respect of Shop Nos. 4, 5 & 6 and Mezzanine Floor Nos. 2, 5 & 6 situated at Gidu Chowk Breeze Tower, Hyderabad, which was allowed vide order dated 24.11.2021 and the opponents Jannat Gul and others preferred appeal bearing No.56 of 2021 their against, before learned VII<sup>th</sup> Additional District Judge Hyderabad, which was dismissed vide Judgment dated 22.08.2022, against which Jannat Gul & others again filed C.P No.S-639 of 2022 before this Court, which too was dismissed vide order dated 5.09.2022 and thereafter respondent filed Execution Application No.05 of 2022, in which learned Rent Controller passed the impugned order dated 05.10.2022 and issued writ of possession in favor of respondent.

3. On being confronted with the aforesaid position to the extent that the petitioner was not party to the above proceedings, which attained finality and as to how this petition could be maintainable against the order passed in execution proceedings?

4. Mr. Manzoor Ali Jessar learned counsel submits that out of rented premises Shop No.6 was / is owned by the present petitioner; however, the same has wrongly and malafidely been mentioned in Rent Application by the respondent and now writ of possession has been issued in respect of rented premises including Shop No.6. In support of his arguments he referred to Sale Agreement dated 25.01.2001 entered into between the petitioner and M/s Sirius Construction Builders & Developers in respect of Shop No.6 measuring 366 sq. feet situated in Breeze Tower. Be that as it

may, if it is presumed that out of rented premises Shop No.06 belongs to the present petitioner, even though the same controversy could not be looked into by this Court under its constitutional jurisdiction and the petitioner has the remedy before a competent Court of law.

6. In view of the above, the instant petition stands dismissed in limine along with pending applications, if any, leaving the petitioner at liberty to avail proper remedy before the Court having jurisdiction.

JUDGE

Sajjad Ali Jessar