

IN THE HIGH COURT OF SINDH, KARACHI

H.C.A. NO.204 OF 2021

AND

H.C.A. NO.205 OF 2021

Date

Order with signature of Judge

Present:

Mr. Justice Aqeel Ahmed Abbasi

Mr. Justice Abdul Mobeen Lakho

01-06-2022

Mr.Khawaja Shamsul Islam, Advocate for the Appellants.

Mr.Nehal Hashmi and Mr.Muhammad Aziz Khan, Advocates for Respondent Nos.1 and 3

Respondent No.1 Muhammad Azam Baig and Respondent No.3 Muhammad Latifullah are present in person.

ORDER

After hearing the learned counsel for the parties at some length, by consent, the impugned order is set-aside and instant High Court Appeals are disposed of in the following terms:-

- (1) The respondent No.3 Muhammad Latifullah, who is present along with his counsel, verifies that he is the tenant of the appellants, however, has been making payment of the monthly rent and maintenance charges of tenement in his possession, through Muhammad Azam Baig son of Nadeem Baig (Respondent No.1). Since there seems no dispute with regards to title of appellants and relationship of landlord/lady and tenant between appellants and respondent No.1 in respect of subject tenement, therefore, with effect from the month of May, 2022, the respondent No.3 shall make payment of the monthly rent along with maintenance charges, as per agreement, regularly to the appellants, who will issue receipt in this regard, whereas, no default shall be made by the respondent towards payment of monthly rent to appellants. However, it will be without prejudice to the entire claim of the appellants towards arrears of monthly rent for the whole period of tenancy, if any, and appellants will be at liberty to either file appropriate application before the learned Single Judge in the Suit for recovery of paid amount, or to file appropriate proceedings before the competent forum/court as may be available to the

appellants in law. The respondents shall not create any hindrance to the appellants in respect of their access to the subject building, including tenements at reasonable time in accordance with law.

(2) As regards the claim of the respondent No.1 towards cost of construction of the subject building to be adjusted from the rent in respect of tenement at the mezzanine floor for the aforesaid period, respondent may pursue his claim before the learned Single Judge while adducing evidence in his Suit which shall be decided in accordance with law, however, the fate of respondent No.1's possession of two rooms in the subject building will be determined by the learned Single Judge in accordance with law, and till then, the respondent No.1 if found in lawful possession, may not be dispossessed without due process of law.

(3) The parties will be at liberty to file appropriate proceedings or/and application for seeking further relief in their Suits i.e. Suit No.719/2019 and Suit No.1386/2019, which shall be consolidated (The Suit No.719/2019 will be leading suit), consolidated issues may be framed by the learned Single Judge, whereas, it is expected that both the Suits may be expeditiously proceeded, and the evidence of both the parties may be recorded within a period of two months through Commissioner as may be appointed by consent of the parties by the learned Single Judge and thereafter, the judgment and decree may be passed within another period of two months from the date of final arguments in the case. However, the aforesaid time will exclude the period of vacations i.e. June and July, 2022. All the parties shall ensure compliance of court's order and shall not create any law and order situation.

(4) Accordingly, Instant High Court Appeals along with listed applications stands disposed of in the above terms.

Judge

Judge