

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
II-Appeal No. 98 of 2021

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| Date | Order with signature of Judge |
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1. For hearing of CMA No. 2697/2021 (Stay)
 2. For hearing of main case
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26th April 2023

Mr. Muhammad Habib Jalib, advocate for the appellant
Mr. Nadeem Ahmed Azar, advocate for respondent No.1

Heard learned counsel for the respective parties.

Admittedly, learned trial Court passed a splendid judgment in consolidated suit filed by the parties *inter-se*. However, the appellate Court, while referring to the rent proceedings, dismissed the appeal filed by the appellant, who preferred a suit for possession. The suit for specific performance filed by the respondent was also dismissed as the respondent failed to agitate the issue as required by law. Needless to mention that in appeal every aspect is to be examined by the appellate Court likewise the trial Court; even the grounds taken in appeal are to be considered and appreciated in order to reach to a proper conclusion. However, in the present case not a single ground taken in appeal was considered and appreciated by the appellate Court while passing the impugned judgment.

Under these circumstances, when learned counsel for the respective parties were confronted to this legal position, they agreed that this is a fit case to be remanded to the appellate Court for a decision afresh. Accordingly, impugned judgment is set aside and the case is remanded to the appellate court to decide the same in accordance with law. Learned District Judge shall withdraw that appeal and shall assign the same to any other judge, who shall decide it after examining the complete record including evidence preferably within three months from today. Needless to mention that if any application is preferred for additional evidence before the appellate Court that shall be decided first and thereafter, the appeal shall be decided accordingly.

The captioned appeal stands disposed of in the foregoing terms.

J U D G E