

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Constitution Petition No. S-1064 of 2023

Date	Order with signature of Judge
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Fresh Case.

1. For Order on CMA No. 7785//2023 (U/A)
2. For order on office objection No. 19 & reply of Counsel.
3. For Order on CMA No. 7786/2023 (Exp)
4. For Order on CMA No. 7787/2023 (stay)
5. For Order on CMA No. 7788/2023 (U/O 41 Rule 5)
6. For hearing of main case.

18.10.2023.

Mr. S. Amin Shah, Advocate for Petitioner.

1. Granted.

2 to 6. Through this Petition, the Petitioner has impugned Judgment dated 20.09.2023 passed in First Rent Appeal No. 165 of 2023; whereby, while dismissing the appeal order of the learned Rent Controller in Rent Case No. 725 of 2022 dated 11.05.2023 has been maintained through which an ejectment order has been passed against the petitioner.

Heard learned Counsel for the Petitioner and perused the record. It appears that an Application under Section 16(1) of the Sindh Rented Premises Ordinance, 1979 ("Ordinance") was decided by the learned Rent Controller on 15.12.2022; whereby, certain directions were given for deposit of rent in respect of arrears and future rent; however, admittedly such order was never complied with, and thereafter an order of ejectment has been passed under Section 16(2) of the Ordinance.

While confronted, Petitioner's Counsel submits that since Petitioner's claim is that he has purchased the property in question from its previous owner and has already filed a suit for specific performance; hence was not required to comply with the said order as there is no relationship with the Respondent.

Such contention does not appear to be in consonance with law settled by the Supreme Court in *Muhammad Iqbal Haider*¹, as mere filing of a civil suit would not be sufficient to refuse compliance of an order passed under Section 16(1) of the Ordinance as once the petitioner is prima facie shown to be inducted as a tenant of the demised premises, he could not claim any exemption from payment of rent on account of institution of suit for specific performance. It has been further held that such relationship of landlord and tenant is not severed even if execution of an agreement to sell is admitted.

In view of such position, there appears to be no justification to exercise any discretion to interfere with the concurrent findings of the two Courts below. Accordingly, the Petition, being misconceived, is hereby dismissed in *limine* with pending applications.

JUDGE

Ayaz

¹ Muhammad Iqbal Haider Vs. Vth Rent Controller Central (2009 S.C.M.R. 1396) reiterated in Muhammad Iqbal Haider v 1st ADJ, Karachi Central (PLD 2018 SC 35); Nazir Ahmed v. Mst. Sardar Bibi (1989 SCMR 913); Mst. Bor Bibi v. Abdul Qadir (1996 SCMR 87), Waheedullah v. Mst. Rehana Nasim (2004 SCMR 1568), Haji Jumma Khan v. Haji Zarin Khan (PLD 1999 SC 1101), Khawaja Ammar Hussain v. Muhammad Shabbiruddin Khan (PLD 1986 Karachi 74), Habib Khan v. Haji Haroon-ur- Rasheed (1989 CLC 783); Gohar Ali Shah v. Shahzada Alam (2000 MLD 82), Iqbal and others v. Mst. Rabia Bibi and another (PLD 1991 SC 242) and Syed Imran Ahmed v. Bilal and another (PLD 2009 SC 546)