

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Constitutional Petition No. S-936 of 2021

Date	Order with signature of Judge
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For order as to maintainability

29.11.2023

Mr. Muhammad Yaqoob Khan advocate for the petitioner alongwith petitioner
Syed Meeral Shah Bukhari, Additional PG
Syed Ahsan Ali Shah, respondent No.3 is present in person

By invoking the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the Petitioner-Mother Sayeda Rafaquat Sultana is seeking implementation of the order dated 24.9.2021 passed by Deputy Commissioner/Collector District East Karachi in Complaint filed by the petitioner against the highhandedness of her son namely Syed Ehsan Ali Shah, whereby the Deputy Commissioner passed the following order-

“By this order I intend to dispose off the complaint filed by the above-named complainant. Whereby, the complainant stated that being aggrieved with the misbehavior and disobedience at large from the above named defendant the instant complaint is filed and prayed for eviction of above named defendant and his family from House No. E-2, Block-F, Gulshan-e-Jamal, Karachi owned / entered in the name of complainant's husband Syed Bedar Hussain Shah.

That the spirit of this Ordinance reveals protection of parents from the wrath of their own off-springs Hence, relying upon the lines contained in Section 5 of the Ordinance.... if he is satisfied that the ownership thereof vests in the parent in the official record irrespective of any defence put up by the child, including the defences that the house was constructed or purchased through the funds of his spouse or off spring or anyone else, or that anyone including the child, offspring have acquired or purchased the house from the parent”

That the Section 4 of the said Ordinance provide rights to the parent for later's eviction from the house, if the house is owned or rented or in possession by any other means of parent.

Accordingly, notices were issued and ample opportunity of hearing was offered to both the parties. The defendant Syed Ehsaan Ali Shah S/o Syed Bedar Hussain Shah has filed reply to the complaint and mainly stated therein that the said House is the property of my Late Father Syed Bedar Hussain Shah and as per law, I am the legal co-sharer in the said property and in this regard a Civil Suit No 259 / 2021 is pending adjudication before the Hon'ble High Court of Sindh and on the strength of adjudication of the said Civil Suit the defendant prayed for dismissal of instant complaint. The said Civil Suit is for right in property, hence, it does not bar from proceedings under this law.

In this case the said house is co-owned by the complainant parent, her other off- springs and the defendant by way of inheritance from complainant's late husband Since, the Ordinance is silent whether how to go about in the case of co-ownership, thus relying upon the above discussed spirit of the law 1, Asif Jan Siddiqi Deputy Commissioner/ Collector, District East Karachi, in exercise of powers conferred under Sub-Section (5) of Section 4 of the Parents Protection Ordinance, 2021 do hereby order eviction of Syed Ehsaan Ali Shah S/o Syed Badar Hussain Shah and his off-springs from the

House No. E-2, Block-F, Gulshan-e-Jamal, Karachi. The defendant, if aggrieved by this Order, is at liberty to approach the competent Court of law.”

2. After hearing the mourning of the mother/petitioner, her son was summoned through a bailable warrant of arrest for today, as such he has been produced by the SHO before this Court, who undertook not to cause harassment to his mother.

3. The young married son sensing the situation, expressed remorse for his shameful act and in the open court vowed that he shall do his best to look after and care for his mother. His statement is taken on record. The respondent/son shall abide by his commitment made before this Court and in case of any violation, the petitioner shall approach and inform the SHO of Police Station to do the needful.

4. Respondent-son who is present in person denies the allegations and submits that he is the legal co-sharer in the subject property and in this regard, he has filed Civil Suit No 259 / 2021 before this Court, therefore this Petition is not maintainable under the law and prayed for dismissal of this Petition.

5. I have heard the learned counsel for the petitioner and respondent-Syed Ehsan Ali Shah who is present in person and perused the material available on record.

6. In essence grievance of the petitioner is that her son/respondent is disobedient and is not ready to provide her with the necessities of life despite her old age, therefore, she was compelled to approach the Deputy Commissioner/Collector District East Karachi by filing complaint against her son under the Protection of Parents Ordinance 2021.

7. A Mother sacrifices her comfort and sleep to provide comfort to her children. No doubt, in developed countries, provisions of care to elderly parents have become a common event and the governments are constrained to develop an Institutional structure for old age care, but in this part of the world, the social family bonds have been strengthened by the religion of Islam.

8. Primarily, Islam commands us to honor our parents, obey them, respect their opinions, and be kind to them. Kindness to parents is the primary duty of the children. Hence, it is ingrained in the teachings of Islam that a child is obligated to care for and be dutiful to parents.

However, there have been unfortunate instances where parents are abused or abandoned.

9. In view of the above facts and circumstances of the case, this petition is disposed of with a direction to the SSP concerned to implement the order dated 24.9.2021 passed by Deputy Commissioner/Collector District East Karachi in Complaint filed by the petitioner against the highhandedness of her son namely Syed Ehsan Ali Shah. So far as the stance of the respondent is concerned the same shall be looked into by a competent Court of law where his civil dispute about his right to the property in question shall be taken care of by the learned Court. As this order is related to the attitude of the respondent toward his real mother who is causing unnecessary harassment to her as such it would be more appropriate to keep the respondent away from the petitioner as per her demand till the petitioner-mother agrees to give access to the respondent in her house that is subject to all just exceptions as provided under the law. The aforesaid exercise shall be undertaken within two weeks positively without fail, if resistance comes on the part of the respondent he shall take swift penal action against him promptly.

10. Let a copy of the order be communicated to the SSP concerned for compliance. The MIT-II shall ensure compliance within time and the SSP shall continue to pursue the matter if the respondent- son mends his way.

JUDGE