

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P No.S-350, 351, 352, 353, 354, 355, 356 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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21.08.2023

Mr. Muhammad Arshad S. Pathan, advocate for petitioner.

These petitions are arising out of an interim order passed on 5th August 2023 whereby applications u/s 20(b) and (d) SRPO 1979 r/w Section 151 CPC and u/s 19 of SRPO r/w Section 151 CPC were dismissed. Earlier, an order was passed for the same consideration on 14.12.2022 by predecessor of present presiding officer whereby objections of the petitioner were discarded with an option that after evidence of the opponent's side the reporting officer would be summoned for evidence. When the order was brought to the notice of the presiding officer he allegedly directed the petitioner to move such application which was then declined by the impugned order dated 05.08.2023. Counsel submits that this could not have been done by the presiding officer as the earlier order has already been passed whereby intentions to summon the witnesses were shown by court after recording of applicant's evidence which require no further application or deliberation. The impugned order has almost reviewed the earlier order dated 14.12.2022.

On facts Mr. Muhammad Arshad S. Pathan may have aligned his case well but I am faced with the legal consequence / fallout in the instant case. The Rent Ordinance bars the appeal for any interim order in terms of Section 21 of the Sindh Rented Premises Ordinance 1979. It provides that any party aggrieved by an order, not being an interim order, made by the controller, may within 30 days of such order prefer an appeal to the District Judge. If the special statute has not provided an appeal in respect of any interim order, no alternate recourse could be exhausted such as one by filing a writ petition, unless the order impugned amounts to

deciding the whole gamut of the dispute. This alternate recourse would amount to frustrating the object and theme of the Rent Ordinance which is of a summary trial. Of course if a right of any litigant is violated by any interim order and/or such right if denied could be agitated but in an appeal against the final decision, if it is so passed and/or could prefer cross appeal in an appeal of other side, if not aggrieved of final order. The appellate court would then consider such grounds if the recording of evidence of the witness was inevitable to disclose that the applicant of the ejectment application was no more a landlord and/or owner or that he/she could not maintain ejectment application. This would go to the root of the case as far as the relationship between the two parties concerned, but that has to be seen in the final conclusion, not by way of a challenge to interim order.

Nonetheless, this being an interim order such cannot be intervened on any legal proposition unless the main ejectment applications or entire controversy is decided one way or the other. With this understanding of law, these petitions against private individuals too are not maintainable and that too for an interim order. The law will take its own course when the rent application is decided and if it is so, aggrieved party and/or the petitioner may prefer an appeal or cross appeal accordingly, raising the instant grounds as well amongst others. These petitions are accordingly disposed off.

JUDGE