

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
C. P. No. D-7319 of 2021

| Date | Order with signature of Judge |
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FRESH CASE.

1. For orders on CMA No.4932/2022.
2. For hearing of main case.

30.08.2023.

Mr. Hamid Ali, Advocate for the Petitioner.

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**YOUSUF ALI SAYEED, J. -** The Petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution, impugning the Order dated 21.08.2021 made by the learned IVth Additional District Judge (MCAC), Karachi, Central, dismissing Civil Revision Application No.19/2021 filed by him against the Order passed by the learned VIIIth Senior Civil Judge, Karachi Central on 23.01.2021 in Civil Suit No.430/2018, whereby his Application Order 1, Rule 10 CPC was dismissed.

2. The attendant facts of the matter are that the Suit had been filed by the Respondent No.1 against one Arshad Aziz Pirani, claiming that there a relationship of landlord and tenant between them in respect of an immovable property and seeking recovery of a sum of Rs.21,70,000/- said to be due on account of monthly rent at the rate of Rs.70,000/- (rupees Seventy Thousand only) per month from the month of October 2015 to the month of April 2018, as well as profit/interest of 15% per annum till realization of that amount, with the Petitioner seeing to intervene in the matter on the ground that he was the real and actual owner of the property in question.

3. After hearing the parties, the learned trial Court dismissed the Petitioner's Application under Order 1 Rule 10 CPC as he was found not to possess any such title and not be a necessary or proper party for purpose of the proceedings, with his Revision Application also subsequently meeting the same fate. The relevant excerpt from the Order of the Revisional Court recording the essence of the matter reads as follows:

"I have considered the submissions made by the attorney of applicant, and have minutely perused the impugned order passed by the learned trial Court. Perusal of file reveals that plaintiff/Respondent No.2 filed suit for Recovery of Rs.21,70,000/- against Arshad Aziz Pirani on account of monthly rent w.e.f. October 2015 to April 2018. It is matter of record that plaintiff/Respondent No.2 had filed rent Cases bearing No.435/2015 (for determination of fair rent) a Rent Case No.436/2015 for ejectment of defendant/tenant from the subject rented premises, which were allowed by the learned rent controller in favour of Respondent No.2 and the order of learned rent controller were maintained up-to the level of High Court. It is also matter of record that the Respondent No.2 filed execution application in rent case No.436/2015, for execution of order passed in rent case, during proceedings of execution application, present applicant filed an application under Section 12 (2) CPC, which was dismissed by the learned rent Controller. It is also matter of record that present suit has been filed by the Respondent No.2/Plaintiff for recovery of rent arrears, who has registered sale deed as well as possession of subject property, in his favour. On the contrary, neither the applicant/intervener is in possession of subject property nor having legal title or character over the suit property in his favour."

4. Indeed, the very Affidavit filed by the Petitioner in support of the underlying Application reflect a lack of any subsisting title and on query posed learned counsel conceded that Suit No. 1127 of 2018 had been filed by the Petitioner before this Court in that regard, seeking Declaration, Cancellation and Permanent Injunction, which remains pending on the Original Side.

5. Under the circumstances, the Orders of the fora in the matter at hand below are unexceptionable and do not warrant interference. The Petition is found to be misconceived and is accordingly dismissed *in limine*.

JUDGE

CHIEF JUSTICE

MUBASHIR