

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
F.R.A. No.08 of 2024  
[Farhat Rashid v. Controller of Rent and two others]

---

Date	Order With Signature Of Judge
------	-------------------------------

---

- 1.For order on office objection
- 2.For hg of CMA No.4780/2024
- 3.For hg of main case

Mr. Rafiq Ahmed Kalwar, advocate for the appellant.  
Mr. Haider Waheed, advocate for respondent No. 2.

-----

**J U D G M E N T**

**MUHAMMAD IQBAL KALHORO, J:-** Appellant has filed this First Rent Appeal against an order dated 09.05.2024, passed by Additional Controller of Rents, Clifton Cantonment, Karachi directing him to hand over vacant peaceful possession of the demised premises viz. office located on the 4<sup>th</sup> Floor, Building No.11-C, 1<sup>st</sup> Commercial Lane, Shahbaz Commercial, Phase-VI, Defence Housing Authority, Karachi to respondent No.2.

2. Record reflects that respondent No. 2 Saba Farhat Rashid filed the said case against respondent No. 3 M/s. Logistica Pakistan for eviction on the ground of default in making payment of rent and raising illegal and unauthorized construction in the said premises. During pendency of the case, the appellant, who is husband of respondent No. 2 filed an application under Order 1 Rule 10(2) CPC for becoming a party in the rent case. The application was allowed and he was arrayed as opponent No.2.

3. Then he filed his written reply to the case claiming that in fact he was the actual landlord of the demised premises and had handed over the premises to respondent No. 3 through a Tenancy Agreement dated 22.09.2022. Respondent No. 3 in its written statement admitted such fact and denied having any relation with respondent No. 2. The record

further reveals that during pendency of the rent case, an application was filed by respondent No. 2's counsel that respondent No. 3, the tenant, had handed over keys of the premises to appellant, her husband, on 14.03.2024 after vacating the same. On such application, an inspection of the premises was carried out under the orders of the trial Court. It was found locked and a security guard standing outside the building. No one was found present inside the office and signboard of the company had already been removed. The learned Controller of Rents, after perusing such report and in view of the documents, has observed in the impugned order that from the record respondent No. 2 is established to be an absolute and lawful owner of the demised premises by virtue of Sub-lease executed in her favour by her husband, the appellant, and since during pendency of the rent case, the tenant had vacated the premises and handed over the keys to her husband/opponent No. 2, he was required to hand over vacant possession to appellant/respondent No. 2 within 30 days.

4. The case of appellant is that the Controller of Rents has no jurisdiction to pass such order when admittedly between him and respondent No. 2, a Civil Suit bearing No.122 of 2020, filed by appellant is pending before this Court on Original Side, wherein appellant has sought declaration to be the real owner of the said premises against respondent No. 2 and she as *benami*/ostensible owner. Learned counsel for the appellant has further argued that in the said suit, status quo has been ordered in favour of appellant, the Controller of Rents is required to give findings only in respect of an issue pertaining to rent matters, whereas, since in this case, there is no rent issue between the appellant, who is husband of respondent No. 2 and her, the Rent Controller has no jurisdiction to adjudicate the matter and give such directions.

5. On the other hand, learned counsel for respondent No. 2 has filed the documents and opposed the contentions of appellant's counsel.

6. I have heard both the parties and perused the record. Record reflects that appellant has filed the aforementioned suit against respondent No. 2 and others for declaration, mandatory and permanent injunction, which is pending on the Original Side of this Court. In the suit, he has mentioned that the demised premises was rented out in the year 2010 by him but then on 09.04.2012 after two years, he had executed Indenture of Sub-Lease in favour of his wife, respondent No. 2, and the property was transferred in her name. And that it is he who is actual owner of the property and not his wife who is simply a *benamidar*.

7. In the said context, he has sought relief that he may be declared as absolute and real owner of the subject property, which is ostensibly held by respondent No. 2, and she may be declared as *benami* owner of the subject property. Further, he has prayed that respondent No. 2 may be restrained from alienating or redeeming/ mortgaging the subject property with Muslim Commercial Bank/respondent No.4 and be restrained from creating any third party interest with a prayer for maintaining status quo between the parties. When the suit was taken up on 27.01.2020, this Court on Original Side ordered the respondent No. 2 from creating any third party interest and so also to maintain status quo. The said proceedings, and their outcome, if any, are totally distinct than the proceedings taken up by the Controller of Rents in the instant case. These questions raised in the civil suit can be decided only after full-dressed trial in which relevant documents and evidence have to come on record yet. In the rent matter, on the contrary, the Rent Controller has to confine himself to the issues concerning relations of tenant and the landlord between the parties and the disputes arising out of it including but not limited to ejection.

8. When the rent case was filed, admittedly respondent No. 3 was in possession of the demised premises in the capacity of tenant, during

pendency of such case respondent No.3 handed over possession of the premises to the appellant considering him to be the landlord of the property and taking in account the fact that he had executed tenancy agreement with it. Whereas the property actually stood in the name of respondent No. 2, wife of the appellant, at that time, who by virtue of being its owner would be deemed to be holding its possession. This fact has not even been denied by the appellant. In fact, he has admitted it in his suit mentioned above that he had executed sub-lease in favour of his wife. When he transferred the property to his wife by executing documents duly registered; it would mean that he transferred all his rights on the property to her as well. The circumstances behind such execution of documents by appellant to her are yet to be decided in the suit and cannot be accepted on the face value as sought by the appellant.

9. What is however apparent is that respondent No.3 during pendency of the rent case handed over possession to the appellant which seems to be nothing but a ploy to defeat the relief sought by respondent No. 2 in the rent case. Agreement of rent signed by appellant with respondent No. 3 acting on behalf of his wife was not an unusual act, and is not likely to change status of respondent No.2 over the property. Nor signing of tenancy agreement by appellant with respondent No. 3, the tenant, would make him owner of the property until and unless such declaration is given by the Civil Court in favour of the appellant.

10. The suit on this issue is already pending between the parties and the orders have been passed restraining the respondent No. 2 from creating third party interest. However, such interim order -- restraining respondent No.2 from creating third party interest -- will not be deemed to deprive respondent No. 2, from having possession of the demised premises, of which she appears to be the sole owner and which was given to respondent No. 3 on rent, but when the rent case was filed it

was vacated by it and given to the appellant instead of handing it over to respondent No.2.

9. I, therefore, find no illegality in the impugned order, which has been passed by the Additional Controller of Rents Clifton Cantonment by appreciating the facts in their true context. This being the position, I find no merit in this appeal, which is accordingly dismissed along with pending application. The above are the reasons of my short order dated 21.08.2024.

JUDGE

HANIF