

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

CP NO.S-70/2023



Date

Order with signature of Judge

1. For hearing of MA No.523/2023.
2. For hearing of main case.

**25.08.2023**

Syed Amin Shah advocate for petitioner.

Mr. Ahmed Bukhsh advocate for respondent No.1.

.....

SALAHUDDIN PANHWAR, J: At the outset learned counsel for petitioner has argued that trial court passed order dated 12.04.2022 on application under section 16(1) SRPO 1979 directing the applicant (tenant) to deposit the rent of demised premises at the rate of Rs.800/- before 10<sup>th</sup> of each colander month. He has emphasized statement (page 49) which reflects that same amount was already deposited on 10.02.2022 from January 2022 to June 2022 as well as from July 2022 to December 2022 hence order was complied with, therefore order dated 26.05.2022 passed on application under section 16(2) SRPO 1979 was not sustainable.

2. In contra, learned counsel for respondent No.1 while referring 1990 SCMR 1117 contends that in present case applicant was in knowledge of the death of landlady despite of that he deposited the rent in favour of deceased and not in favour of legal heirs.

3. Issue here is claim of the applicant that he purchased the property and since then he is continuously depositing the rent in MRC and none came forward after the death of landlady to challenge the tenancy or to demand rent, subsequently respondent who is claiming to be purchaser of the property, filed eviction application.



4. Needless to mention that referred judgment in the given circumstances is not applicable as order was already complied with. With regard to continued practice to deposit the rent, it was not disputed by any legal heir; respondent is not falling within the criteria of legal heir but his claim is that he purchased the property. Besides, it is settled principle of law that *lis* is to be decided on merits and no one should be knocked out on technicalities. Under these circumstances, impugned judgments are set aside. Case is remanded back with direction to the trial court to decide the eviction application preferably within three months after providing opportunity to the parties to lead evidence.

Disposed of.

  
J U D G E

IK