

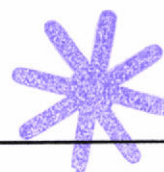
ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C.P. No.S-1182 of 2018

Nadeem Ahmed

versus

S.M. Kaleem & others



Date: Order with signature of Judge

1. For orders on CMA 4901/18
2. For orders on CMA 4902/18
3. For hearing of main case
4. For orders on CMA 4903/18.


Dated: 24.05.2018

Mr. Sh. M. Mushtaq for petitioner.

The subject matter of this petition is an order on application under section 12(2) CPC filed by one intervener/respondent No.1 in Rent Case No.89 of 2013, which was modified/recalled by appellate Court. While the execution application No.20 of 2016 was pending such application under section 12(2) CPC was filed. It was dismissed by the Rent Controller summarily. Being aggrieved of the order, intervener/respondent No.1 filed FRA No.296 of 2017, which was allowed vide order impugned in this petition in terms whereof the Rent Controller was directed to decide the application afresh after recording evidence and entire mechanism in that regard was carved out in paragraph 6 of the impugned order.

I have heard the learned counsel and perused the material available on record.

The intervener's claim was based on registered instrument and it is claimed that the title was acquired through registered Irrevocable General Power of Attorney. In presence of such registered document, when the title is disputed, the probe has to be made through evidence



of the parties and such claim cannot be scored off by rejecting the application summarily without recording evidence in that regard, as has been done by the Rent Controller.

The appellate Court's order whereby the case was remanded, without prejudice to the rights of the parties, apparently is lawful as it speaks about the probe through evidence to clarify the facts and hence this petition merits no consideration. However in view of pendency of the rent case since 2013, I deem it appropriate to direct the Rent Controller to decide the application under section 12(2) strictly in terms of the mechanism provided by the appellate Court in the impugned order within a period of eight weeks from today, excluding the period of summer vacation.

Petition along with listed applications stands dismissed in the above terms.



Judge