

IN THE HIGH COURT OF SINDH AT KARACHI

C.P No.S-1485 of 2019

(Muhammad Ashraf v. Akbar Ali and another)

DATE	ORDER WITH SIGNATURE OF JUDGE.
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D/O matter

- 1. For orders on CMA No.6289/2022.
- 2. For hearing of CMA No.2587/2022.
- 3. For hearing of CMA No.2588/2022.

Mr. Qadir Hussain Khan Advocate for the Petitioner a/w Ms. Shehla Anjum, Advocate.

Petitioner’s attorney Muhammad Ahmed is present.

Mr. Asghar Ali Khan, Advocate for Respondent No.1

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Date of hearing : 16.01.2026

Date of Short Order : 16.01.2026

ORDER

Abdul Hamid Bhurgri, J.- This petition was disposed of vide order dated 09.11.2021, whereby the following order was passed:

“The eviction application filed by respondent No.1/landlord against the petitioner/tenant on the grounds of default and personal need was allowed by the learned Rent Controller, and the appeal filed by the petitioner against his eviction was dismissed by the learned appellate Court. Through the present petition, the petitioner impugned the concurrent findings of the learned Courts below. After making submissions at some length, learned counsel for the petitioner stated that the petitioner shall vacate the demised premises if reasonable time up to 30.06.2022 is granted to him. Learned counsel for respondent No.1 stated that he has no objection if the abovementioned time is granted. By consent, the petitioner was directed to vacate the demised premises latest by 30.06.2022. It was clarified that in case of default in payment/deposit of monthly rent and/or utility bills during the said period, the writ of possession shall be issued against him without notice.

By consent, the petition and listed applications were disposed of in the above terms with no order as to costs.”

- 2. Thereafter, the petitioner filed Civil Petition No.102-K/2022 before the Honourable Supreme Court, which was dismissed vide order dated 21.03.2022 with the observation that the petitioner may pursue his remedy before the High Court in accordance with law. Subsequently, the petitioner filed an application under Section 12(2) CPC bearing CMA

No.2587/2022 on the ground that his learned counsel had allegedly given consent to vacate the demised premises without his authorization, thereby committing an alleged fraud upon him. It was further pleaded that the petitioner otherwise had a good prima facie case with bright chances of success.

3. Heard the learned counsel for the parties and perused the available material on record.

4. It is pertinent to note that the very counsel against whom the petitioner has leveled allegations of having given consent without authority is still representing him. Upon query by this Court, the learned counsel candidly conceded that not only did he give consent on 09.11.2021, but that such consent was, in fact, given by the petitioner himself on the said date when the impugned order was passed. This admission completely belies the plea that the consent was unauthorized or obtained through any deception.

5. It is well settled that an order passed with the consent of the parties cannot be lightly set aside, particularly in proceedings under Section 12(2) CPC, unless it is shown that such consent was procured through fraud, misrepresentation, or deceit. Mere dissatisfaction with the outcome or a subsequent change of heart does not constitute fraud within the meaning of law. In the present case, no material has been placed on record to substantiate the plea that the consent order dated 09.11.2021 was obtained by fraud or without authority. On the contrary, the admission made by the learned counsel clearly establishes that the petitioner had himself given the consent on the relevant date.

6. The record further reflects that the consent was given by the petitioner through his duly engaged counsel, who adopted the same before the Court. The petitioner is, therefore, bound by the acts,

statements, and concessions made on his behalf during the course of judicial proceedings.

7. In view of the above discussion, this Court finds no lawful ground to set aside the order dated 09.11.2021. Consequently, the application under Section 12(2) CPC bearing CMA No.2587/2022 was dismissed along with all other listed applications, with no order as to costs by short order dated 16.01.2026 and these are the reasons for the same.

JUDGE

Ayaz Gul