

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
CP No.S-630 of 2019

Date	Order with signature(s) of Judge(s)
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Disposed of matter

1. For hearing of CMA No.4927/2020
2. For hearing of CMA No.4928/2020

26.01.2026

Mr. Muhammad Azhar Faridi, advocate for the petitioner
M/s. Mushtaq A. Memon, Asif A. Memon and Ms. Ramia Sarfraz, advocates
for the applicant/intervener
Mr. Muhammad Kamran, Assistant Advocate General

1. This CMA No.4928/2020 under Section 12(2) CPC is filed against the judgment dated 02.03.2019 passed in First Rent Appeal No.63/2018 by the Court of XIIth Additional District Judge, Karachi, South and the judgment dated 17.01.2018 passed by the Court of VIIth Rent Controller Karachi South in Rent Case No.1046/2016 (*re- Mst. Shireen Soomro v. Abdul Ghaffar*).
2. Both the Courts below dismissed rent proceedings on the ground that the petitioner had failed to establish the ownership of tenancy regarding demised premises with the alleged tenant. In Const. Petition before this Court, it was held that the Petitioner was entitled for possession as she was the owner of tenement premises.
3. Mr Mushtaq A. Memon Learned Counsel for the applicant contended that at the time of passing of impugned order, the applicant in the present CMA was not party in the rent proceedings. He contended that the applicant was owner of the tenement premises and Director of Company and the premises were being used for storage of goods. He further argued through rent proceedings Petitioner wanted to usurp the property owned by applicant, the order dated 02.03.2019 was obtained through fraud and misrepresentation, hence not sustainable.
4. It appears that from the pleadings of the petition that she was claimed the ownership rights based upon Court's decree and relied upon entry No.RB 6 maintained in the record of rights in her favour.
5. The applicant claims ownership rights in the tenement premises in the manner that the main structure of Lokram building was divided in two portions being northern and southern side, whereas the rear side facing Aram

Bagh Masjid was divided in two portions leaving separate common passage each for access to both portions of the main structure of Lokram Building. Thus, the plot of land measuring 584 sq. yards was divided in four portions. The Southern portion of the main structure of Lokram Building measuring 178 sq. yards i.e. the subject premises was assigned four custodians number being G/1, 1/1, 2/1 and 2/2 on the basis of separate occupation and the applicant in CMA has acquired ownership of subject premises by way of registered sale deed and gift deed.

6. When confronted, learned counsel for the petitioner admits that both the parties were claiming ownership rights over the demised premises and such an issue cannot be decided under rent proceedings, he too admits that no claim to adjudicate the ownership rights was lodged by either side. However, Mr. Mushtaq A. Memon, learned counsel for the applicant, submits that the Suit No.818/2014 was preferred by the petitioner before the competent Court of law which was withdrawn on 17.08.2016. It transpired from the record that the suit too was filed against Abdul Ghaffar alleged tenant in the present proceedings. Learned Counsel therefore frankly conceded that the rent proceedings were not maintainable.

7. Since the tenancy proceedings before the trial Court and appellate Court ended into rejection of the rent case, however, order in the present petition was passed behind the back of the applicant, as such case for review of the order dated 18.09.2020 is made out as the same was obtained through misrepresentation. Accordingly, this application is granted. The order dated 18.09.2020 is set aside and the rent case stands dismissed as already ordered by the Courts below so also this petition.

8. The parties are at liberty to lodge proceedings before the competent court of law if so advised and may claim any of the reliefs including but not limited to possession over subject premises. It is expected that the parties will act strictly in accordance with the law and will not cause any disturbance against each other.

CMA No.4928/2020 stands disposed of in the above terms.

JUDGE