

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**C.P. No.D-536 of 2003**

---

<b>Date</b>	<b>Order with signature of Judge</b>
-------------	--------------------------------------

---

**Present**

**Mr. Justice Muhammad Ali Mazhar.**  
**Mr. Justice Abdul Maalik Gaddi.**

Syed Jawaid Haider Kazmi & another.....Petitioners

V E R S U S

District Coordinator Officer & others.....Respondents

**Date of hearing 25.01.2017**

Syed Jawaid Haider Kazmi advocate Petitioner No.1 is present in person.

M/s. Iqbal Khurram and Ch. Arif advocates for the K.M.C. a/w Muhammad Akmal Dar, Deputy Director (Estate), K.M.C and Muhammad Shareef, Deputy Director (Estate), K.M.C.

-----

**Muhammad Ali Mazhar, J:** The case of the petitioners is that in the year 1961 Karachi Metropolitan Corporation constructed a market known as K.M.C Market, Sh. V. Road, Lea Market, Karachi for the welfare of the public in which the first floor was dedicated for office use only, besides, the schools and the post office, whereas, ground floor was meant for shopping purpose. The Petitioner No.1 was allocated office No.27 in the same building at first floor against the monthly rent. Since the petitioners raised some issue regarding the unlawful conversion of school into Kashmir Guest House and conversion of latrine on ground floor into shop and the conversion of staircase into shop, therefore, order sheet dated 04.04.2006 reflects that D.C.O was directed to hold inquiry into the

allegation made in the petition and submit the report within four weeks. The order dated 31.10.2006 further reflects that Kaleem Abbas, D.O. appeared and stated that no unauthorized construction exists as the same was removed. D.C.O further stated that shops have been converted by Mukhtiar Hussain, now T.M.O, Saddar and one Muhammad Hafeez. Since this petition is pending for the last several years and has not been disposed of since 2003, therefore, at this stage, the petitioner No.1 submits that he is in possession of office No.27 but due to blockade in the entrance/passages, he could not approach his office which is in his own possession and in his lock and key.

2. Muhammad Ashraf, Deputy Director (Estate), K.M.C and Muhammad Akmal Dar, Deputy Director (Estate), K.M.C both have confirmed that petitioner No.1 Syed Javaid Haider Kazmi advocate is in possession but they further stated that the some rent is due which has not been paid to K.M.C. by the petitioner No.1.

3. On the contrary, petitioner No.1 submits that since the department failed to issue the challan of rent, therefore, rent was not paid. He further argued that some repair work is immediately required at the first floor ceiling which has not been done by the department. The petitioner No.1 further submits that the entrance is also blocked by the shopkeepers due to which the passage has become much narrow and it is very difficult for him and his clients to enter into the building. Petitioner No.1 further submits that during pendency of this

petition, the petitioner No.2 Haji Abdul Latif Channa advocate has expired who was tenant of office No.37, Lea Market, Nawab Mohabat Khan Ji Road, Karachi which is a separate building. The representative of the Estate Department, K.M.C submits that office was not in possession of Haji Abdul Latif Channa advocate. The petitioner No.1 submits that he informed the son of the petitioner No.2 for making proper application but he has shown no interest. At this stage when this petition is pending since 2003 further adjournment will further spoil the matter and the ultimate sufferer would be the petitioner No.1 who despite having possession could not use his office for his professional engagements. Both Deputy Directors (Estate), K.M.C undertake to issue the rent challan within ten (10) days to the petitioner No.1 alongwith calculation of arrears, if any, and if any condition was mentioned in the rent agreement for increase of rent that will also be taken under consideration. They further undertake that the blockade and/or encroachment from ground floor passage/ entrance will be removed by them in accordance with law. Petitioner No.1 also raised another question that some latrines have been built unlawfully adjacent to his office at first floor. Both the Deputy Directors (Estate), K.M.C. admit that latrines were constructed in violation of the approved building plan by some encroachers and, now, they will strictly look into the matter and remove the said illegal construction in accordance with law within two months' time. On this statement, petitioner No.1 is satisfied. Petition is disposed of accordingly and we expect that this

exercise will be completed within two (02) months as assured by both Deputy Directors. Once the undertaking given by the K.M.C. official is complied with, the petitioner No.1 will immediately pay the rent as per agreement. So far as the petitioner No.2 is concerned, according to petitioner No.1, neither the names of his legal heirs are on record nor any application was filed by them to implead. The petition so far as the petitioner No.2 is concerned is abated. However, if the legal heirs of the view that the right to sue survives, they may avail appropriate remedy in accordance with law.

JUDGE

JUDGE

Aadil Arab