

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P.No.S-190 of 2018.

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection.
2. For katcha peshi.
3. For hearing of M.A-502 of 2018.

23.02.2018.

Mr. Muhammad Jabbar Shaikh, Advocate for the petitioner.

Mr. Wali Muhammad Jamari, Assistant A.G.

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Mr. Kamaluddin Advocate files Vakalatnama on behalf of private respondents, taken on record.

2. Learned counsel for the petitioner contends that the learned Rent Controller has passed the order under section 16(1) of the Sindh Rented Premises Ordinance, 1979, without considering the denial of relationship of landlord and tenant and as such was required to frame an issue in this regard. Learned counsel relies upon alleged sale agreement filed in this respect. He also relies upon **1992 SCMR Page-1149**. It is also contended on part of learned counsel for the petitioner that a suit for specific performance of contract has also been filed by the petitioner.

2. Learned counsel for the private respondents on the other hand contends that constitutional petition is not available against an interim order, especially, without approaching to the appellate Court. It is further contended on part of learned counsel for the private respondents that signatures on the alleged sale agreement and the rent agreement clearly show the same to be forged. Learned counsel for the private respondent in support of his contention relied upon the cases of **Seema Begum v. Muhammad Ishaq (PLD 2009 SC 45)** and **Abdul Farooque v. Maqsood Ahmed (2015 CLC 663)**. Learned counsel for the private respondents further distinguishes the authority as relied upon by learned counsel for the petitioner on the ground that the same pertains to the matter after final conclusion and not at the interim stage.

3. Learned AAG supports the contention of learned counsel for the private respondents and further contends that instant constitutional petition is not maintainable.

4. Learned counsel for the petitioner in rebuttal, states that peculiar facts and circumstances as present in the matter being the sickness of the owner requires that evidence be led before the signatures on referred documents are considered.

5. Having heard the learned counsels, learned AAG and gone through the record, it may be observed that a simple denial cannot be taken as a sole basis of a decision at the interim stage by the learned Rent Controller. The learned Rent Controller as such is to look into the associating circumstances bearing from the record and to pass a balanced order. The learned counsel for the petitioner was also specifically asked as to payment of balance amount of the alleged sale agreement to which he replied that no such order has been passed.

6. In the present circumstances, the impugned order is varied only to the extent that the private respondents shall not be allowed to withdraw the said amount till determination of the issue as to the relationship and no other disturbance to the impugned order is found to be called upon. On account of the proceedings filed before this Court and in the present circumstances, however, a further 10 (ten) days' time is extended from today for compliance of the order as passed by the learned Rent Controller under section 16(1) of the Sindh Rented Premises Ordinance, 1979. Accordingly, this petition stands dismissed in the above terms alongwith the pending application.

JUDGE

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