

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

C.P.No.S-126 of 2015.

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For katcha peshi.
2. For hearing of M.A-1567 of 2016

16.03.2018.

M/s. Ayaz Hussain Chandio and Muhammad Munir Channa, Advocates
alongwith Saifullah Dasti, attorney of the petitioner.

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1. This matter was heard on 11.12.2017 on part of the petitioner and his contentions were recorded, however, the matter was kept reserved as no one was present on part of the private respondent and time was required to go through the file on my own. The same as such was kept for rehearing on 15.03.2018.

2. Having gone through the record it bears there from that the dispute between the parties i.e. the petitioner who claims to be the landlord and the respondent, who is alleged to be tenant in respect of the subject premises for which the private respondent denies being so and claims that the subject premises was acquired against a financial consideration of Rs.80,000/-, whereas a sum of Rs.200,000/- was agreed as total sale consideration. It also bears from the record that no documentation has been brought up in respect to the alleged tenancy. The parties have brought up oral evidence of three witnesses including themselves which is also rebutted accordingly. However, having gone through both the evidence including their pleadings, it is apparent that the respondent has admitted an earlier right / link of the opposite party with the subject premises and further the alleged full consideration of sale price is also admitted not to have been paid. Compared to the amount alleged to have been settled and said to have been paid the same is also less than 50% thereof, as such his evidence acquires less confidence as compared to that of the petitioner. The respondent, in the circumstances, has failed to show a better entitlement as he has failed to even bring forward a reasonable explanation of his possession, as such he can very well be treated as a tenant

in the circumstances as stated. It is also observed that the learned appellate Court has relied upon utility bills which otherwise are not considerable as the location / address of the subject premises as per his own calling in this regard given in the written statement referring to the boundaries cannot be relied upon for want of address. Despite the weak evidence as brought forward the impugned decision to set aside the appellate Court's order and maintain the order of the learned trial Court in the present circumstances is based upon the weightage of the evidence as brought up and present. These findings pertaining to facts can very well be disturbed by any further evidence which may be brought up by the parties. The parties as such may and are free to exercise their rights as may be available before civil court as available and provided in law.

3. In the circumstances, this petition is allowed and the order of the learned appellate Court dated 02.12.2014 is set aside and the order of the learned Rent Controller dated 10.04.2013 is maintained, however in the present circumstance, there is no order as to costs.

JUDGE

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