

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
**CP No.S-74 & 75 of 2017**

Date	Order with signature of Judge
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1. For orders on CMA No.4740/2018 (U/s.XLI R.27 CPC)
2. For hearing of CMA No.276/2017 (Stay)
3. For hearing of Main case

**22.11.2018**

Syed Wasi Hyder Jafri, advocate for the Petitioner.  
Mr. Babar Ali Shaikh, advocate for Respondent.

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This constitution petition is directed against the findings of appellate Court whereby an exparte judgment of ejection against petitioner has been maintained by the appellate Court by refuting all the three claims raised before the appellate Court. Learned counsel for the petitioner also repeatedly stated before the Court that petitioner is not in occupation of the premises in question. His only grievance, which he tried to argue, is that the Respondent would file a suit for recovery of rent and that is why he has come in this Court. Since as per his own statement he has never been tenant and he was never in possession of the premises in question, therefore, his contention to file instant petition is hopelessly premature because till date no suit has been filed against the petitioner for recovery of rent. This plea which has been taken before this Court was not taken before the Court below. The contentions raised by the petitioner before the appellate Court were that civil suit was filed by him is pending and the question of relationship of landlord and tenant has not been decided by the appellate Court. The perusal of impugned order shows that in response to these two grounds the appellate Court has relied on **1983 SCMR 1064 & 206 SCMR 1069** to maintain eviction of petitioner. Learned counsel for the petitioner has not disputed the

very reliance of the case law referred by the appellate Court in the impugned order.

In view of the above, this petition is dismissed. Executing Court is directed to execute decree of the Rent Controller and appellate Court within 30 days from today if premises is not vacant against whoever is in possession. Learned Executing Court may issue writ of possession with police aid without notice on completion of 30 days from today.

These petitions are dismissed with pending applications.

**JUDGE**

SM