

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

C.P No.S-1614 of 2015

Date Order with Signature of the Judge

Hearing/Priority case

Heard on : 07.02.2018.
 For Petitioner : Mrs. Sofia Saeed, Advocate.
 For Respondent No.1 : Mr. Zayyad Khan Abbasi, Advocate.
 Decided on : 23.02.2018

Kausar Sultana Hussain, J.:- Syed Rashid Ali brother of deceased petitioner namely Dr. Syed Sajid Ali has submitted an application U/s. 151 CPC in present CP No.S-1614/2015, praying therein that any officer Nazir/Official Assignee may be directed to collect belonging of the deceased petitioner from the subject rented premises as brothers and sisters of the deceased petitioner want to have all his belongings in presence of court officers.

Per contents of present application, the petitioner Syed Sajid Ali has expired on 09.01.2018 in rented premises and after break opening the locks of the door his body was taken out and then his death certificate was issued by Abbasi Shaheed Hospital Karachi (copy of such death certificate is attached alongwith this application). Brother of deceased petitioner has further mentioned in his application that Syed Sajid Ali got married with one Asia Nighat and he had one daughter namely Rana and son Hassan Ahmed from that marriage but his wife Asia Nighat obtained divorce from him and shifted to Rawalpindi alongwith both children and since then there is no contact with her and children.

Learned counsel for respondent No.1 (landlord) also present alongwith the counsel for the deceased petitioner and prayed that belonging of deceased petitioner may be handed over to the brothers and sisters of deceased petitioner in presence of official of this court and physical possession of the rented premises to the said officer of this court.

After hearing arguments of both the sides and perusal of record I am very clear view that tenancy regarding tenement in question was between deceased petitioner and the landlord/respondent No.1 and the deceased petitioner was residing in the said tenement alone and after his death petition become infructuous as except the deceased petitioner nobody was residing there. The brother of the deceased petitioner informed that ex-wife and children of the deceased petitioner are residing somewhere in Rawalpindi and their whereabouts are not known to them. The remedy available to the landlord and brother of the deceased is to approach to the learned Rent Controller where the landlord/respondent No.1 may submit execution application U/s.22 of SRPO 1979 against the final order passed by the learned V-ADJ Karachi Central by granting ejectment application in favor of the landlord as he prayed.

The relevant provision of section 22 of SRPO, 1979 is being reproduced here for ready reference.

["S.22. Execution of Order. -Final order passed under this Ordinance shall be executed by the Controller and all questions arising between parties and relating to the execution, discharge or satisfaction of the order shall be determined by the Controller and not by a separate suit."

In the light of above mentioned provision of law and discussion, I am of the very firm view that the brother of the deceased petitioner and the legal heirs may also join the said execution proceedings in order to resolve all questions arising between the parties and relating to the execution, discharge or satisfaction of the order passed by the learned V-ADJ Karachi Central, C.P No. S-1614/2015 is now become infructuous due to death of the petitioner. Order passed accordingly.

JUDGE