

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Const. Petition No.S-933 of 2020

Date Order with Signature of Judge

Hearing of priority case :

1. For orders on CMA No.42/2021.
2. For order on office objection No.18 as at 'A'
3. For orders on CMA No.5029/2020.
4. For hearing of main case.

06.01.2021

Mr. Nadir Khan Burdi, advocate for the petitioner.

1. Urgency granted.
2. Deferred for the time being.
- 3-4. It is, *inter-alia*, contended that the petitioner-Society is a tenant of Ground, 1st and 2nd Floors of Building constructed upon an amenity Plot No.SMPA-57, Block-3 of Kusum Education Society. Per learned counsel, the petitioner was ejected from the subject premises by the learned trial Court on the sole ground of default in payment of water conservancy charges. He emphasized that water conservancy charges do not fall within the ambit of words 'Utility Tax', thus was excluded from lease agreement; that the aforesaid aspect of the matter was ignored by both the Courts below. He pointed out that in terms of Section 2(1) of the Sindh Rented Premises Ordinance, 1979 (SRPO), rent does not include water charges, but the same would only be accounted/considered part of rent when the same is being provided for; and, a thing which is not provided or supplied cannot be asked for its charges; that both the Courts below failed to appreciate the evidence brought on record in favour of the petitioner; that the findings of the learned Court below are arbitrary and perverse, thus liable to be reversed; that both the learned courts below have failed to appreciate the legal aspect of the matter and grossly erred in holding that the petitioner has committed willful default in payment of water conservancy charges of the subject premises.

At this stage, learned counsel was asked to satisfy this Court as to how this petition is maintainable against the concurrent findings of the facts and law. He reiterated his submissions as discussed supra and referred to various documents attached with the memo of the petition and further argued that he has a good prima-facie case and there is a strong possibility that he may be ejected at any time by the order of the learned executing Court, therefore, the immediate indulgence of this Court is required in the matter.

To appreciate the contentions of the learned counsel for the petitioner as discussed supra, let notice be issued to the respondents as well as to AAG for **08.01.2021**. In the meanwhile, parties to maintain the status quo. However, it is made clear that if on the next date of hearing the petitioner or his counsel fails to argue the matter and avoids to appear on any ground of whatsoever the interim arrangements made today shall stand recalled without further order of the Court.

JUDGE