

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. S – 996 of 2021

| Date | Order with signature of Judge |
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For orders on CMA No.6586/2021 (Urgency) :
For order on office objection No.18 as at 'A' :
For orders on CMA No.6587/2021 (Exemption) :
For orders on CMA No.6588/2021 (Stay) :
For hearing of main case :

22.12.2021 :

Kaleem Ahmed (CNIC No.42101-7761294-5),
attorney of the petitioner, present in person.

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NADEEM AKHTAR, J. – Rent Case No.112/2020 filed under Section 14 of the Sindh Rented Premises Ordinance, 1979, by respondent No.1 / landlord against the petitioner / tenant for his eviction on the grounds of personal need and default in payment of the monthly rent was allowed ex-parte by the learned Rent Controller vide order dated 17.04.2021. Vide impugned order dated 17.12.2021, F.R.A. No.99/2021 filed by the petitioner against his aforesaid order of eviction was dismissed by the learned IXth Additional District Judge (Model Civil Appellate Court) Karachi West, *inter alia*, as being barred by limitation.

2. It is contended by the attorney of the petitioner that both the learned Courts below failed to appreciate that there was no relationship of landlord and tenant between the parties as the petitioner had purchased the demised premises from respondent No.1, and his Suit for specific performance was pending before the Civil Court. He concedes that till date the title of the demised premises has not been transferred in favour of the petitioner nor has his Suit for specific performance been decreed in his favour. It is well-settled that if the tenant asserts that he is no more a tenant as he had purchased the property, even then he has to vacate the property and file a Suit for specific performance of the sale agreement ; he would be entitled to possession of the property in accordance with law only if he succeeds in his Suit ; and, till such time the Civil Court passes a decree against the landlord in a Suit for specific performance, the landlord would be entitled to recover rent.

3. A perusal of the impugned order of the learned appellate Court shows that the appeal filed by the petitioner was dismissed on merits and also as being barred by limitation. The record shows that the application for obtaining the certified copy of the ex-parte eviction order dated 17.04.2021 passed by the learned Rent Controller was filed by the petitioner on 15.10.2021 which was granted to him on 18.10.2021, and the appeal was presented by him before the learned appellate Court on 25.10.2021. It is important to note that the limitation of thirty (30) days prescribed in the Sindh Rented Premises Ordinance, 1979, for filing the appeal had already expired when the application for certified copy was filed by the petitioner. The dates noted above and the fact that the appeal filed by the petitioner was barred by limitation, are not disputed by the petitioner. In the above circumstances, the impugned order does not suffer from any illegality or infirmity and as such it does not require any interference by this Court. Accordingly, the petition and listed applications are dismissed in limine with no order as to costs.

J U D G E