

**IN THE HIGH COURT OF SINDH AT KARACHI***Before: Mr. Justice Muhammad Shafi Siddiqui***C.P. No.S-650 of 2011**

Zahoor Khan	-----	Petitioner
	Versus	
Mst. Inshallah Begum & others	-----	Respondent

**C.P. No.S-1227of 2011**

City District Government Karachi	-----	Petitioner
	Versus	
Shamim Khan & others	-----	Respondent

**C.P. No.S-1228 of 2011**

City District Government Karachi	-----	Petitioner
	Versus	
Javed Akhtar & others	-----	Respondent

**C.P. No.S-1229 of 2011**

City District Government Karachi	-----	Petitioner
	Versus	
Shamim Khan & others	-----	Respondent

**C.P. No.S-1230 of 2011**

City District Government Karachi	-----	Petitioner
	Versus	
Shamim Khan & others	-----	Respondent

**C.P. No.S-1231 of 2011**

City District Government Karachi	-----	Petitioner
	Versus	
Shamim Khan & others	-----	Respondent

**C.P. No.S-651 of 2011**

Jawed Hussain	-----	Petitioner
	Versus	
Mst. Inshallah Begum & others	-----	Respondent

**C.P. No.S-652 of 2011**

Nafees Ahmed	-----	Petitioner
	Versus	
Mst. Inshallah Begum & others	-----	Respondent

**C.P. No.S-653 of 2011**

Anwer Pasha	-----	Petitioner
	Versus	
Mst. Inshallah Begum & others	-----	Respondent

**C.P. No.S-268 of 2012**

City District Government Karachi	-----	Petitioner
	Versus	
Nafees Ahmed & others	-----	Respondent

**C.P. No.S-269 of 2012**

City District Government Karachi	-----	Petitioner
	Versus	
Shamim Khan & others	-----	Respondent

**C.P. No.S-270 of 2012**

City District Government Karachi	-----	Petitioner
	Versus	
Shamim Khan & others	-----	Respondent

**Date of Hearing:****13.12.2017**

Petitioner in CP No. S-650 &amp; 652 of 2011:

Through Mirza Mehmood Baig Advocate

Petitioner in CP Nos. S-1227-1231, 268-270 Of 2011:

Through Mr. Muhammad Ikram Siddiqui Advocate

Respondent:

Through Mr. Hakim Ali Advocate

**J U D G M E N T**

**Muhammad Shafi Siddiqui, J:** This bunch of petitions involve proceedings commenced under Order 1 Rule 10 CPC moved by the petitioner as well as the City District Government Karachi in some pending rent cases filed by respondent No.14 as available on record. The application under Order 1 Rule 10 CPC to implead intervener/City

District Government Karachi was filed as it involved dispute as to the cancellation of lease of respondent who filed ejectment proceedings. The suit bearing No.83/1991 filed by one Izzat Khan against some of the respondents was dismissed and an appeal bearing No.66/2005 is pending adjudication. The trial Court/Rent Controller dismissed the application vide order dated 02.11.2009 on the strength that CDGK never remained landlord and never served a notice under section 18 of the Sindh Rented Premises Ordinance, 1979 upon the occupants/tenants for change of ownership. The order was assailed in First Rent Appeal which was also dismissed by a detailed order dated 21.2.2011. The appellate Court on the strength of a dispute of title between the City District Government Karachi and respondent maintained the order of Rent Controller and in a way dismissed the application before such dispute could be resolved from a civil Court. Siad order is impugned in these petitions.

I have heard the learned Counsels and perused the material available on record.

Learned Counsel at the very outset was enquired about the fate of rent application wherein the proceedings under Order 1 Rule 10 CPC were initiated and all learned Counsels appearing unanimously stated that those ejectment applications have been disposed of/allowed which order is separately impugned in parallel litigation which off-course subsequent to passing of the order on an application under Order 1 Rule 10 CPC. Learned Counsel when enquired as to how such application could now be allowed as the rent case is not pending, the Counsel for the petitioner has taken me to the history of litigations involving dispute of title. Learned Counsel has taken me to the pleadings in the Suit No.83/1991 and the orders passed by this Court whereby the petitioner was directed to deposit the rent in Miscellaneous Rent Case in the name of both alleged owners i.e. respondent and City District Government Karachi. The order was passed to secure the monetary interest of both

the parties. Since final order on the ejectment applications has already been assailed in other parallel litigation, it would be in the fitness of things that such an order denying to implead the City District Government Karachi as necessary and proper party could well be agitated before the forum hearing the appeal in respect of an order disposing of the main ejectment applications and the Court hearing the appeal or petition in respect of final order passed on ejectment application could decide the controversy as to whether the City District Government Karachi was or was not a necessary and proper party before the trial Court in rent proceedings. These petitions which impugn interlocutory orders dismissing the application under Order 1 Rule 10 CPC prima facie would be a futile attempt as even if they succeed in establishing that they are necessary and proper party, these applicants would not find cases pending before the Rent Controller as it has already been disposed of. It is not proper for me to comment as to whether they are necessary and proper party as it might prejudice the case of the parties.

In view of the dismissal of the rent applications before the Rent Controller out of which these interlocutory orders have arisen, these petitions have become infructuous and are accordingly dismissed along with pending applications, if any, however the defence is still open and it may well be argued in the cases impugning ejectment order, decided without petitioner being impleaded.

Judge