

ORDER SHEET
 IN THE HIGH COURT OF SINDH, KARACHI
 C.P. No. S-1382 of 2013

Before: Mr. Justice Muhammad Shafi Siddiqui

Mst. Sultana Ahmed	-----	Petitioner
	Versus	
Illrd A.D.J Karachi (West) & another	-----	Respondents

Order with signature of Judge

For hearing of CMA No.5639/2015

ORDER

Mr. Amil Kasi for petitioner
 Mr. Ravi R. Panjani for respondent
 .X.X.X.X.

This application is filed by an alleged licensee of the premises under section 12(2) CPC. Rent Case No.178/2009 was filed by petitioner against respondent No.2 M/s. Chevron Pakistan Limited. The rent application was allowed by the Rent Controller whereas the appeal preferred by M/s. Chevron Pakistan Limited as being its lessee was allowed. The dispute then came to this Court in this CP No.S-1382/2013, filed by Mst. Sultana Ahmed, the landlady against M/s. Chevron Pakistan Limited. The petition was allowed and the order of the first appellate Court dated 02.11.2013 was declared to be without lawful authority. The matter went to Hon'ble Supreme Court in CPLA No.358-K/2015 and after arguing the matter at length the petitioner M/s. Chevron Pakistan Limited was allowed a reasonable time to vacate the premises. The "applicant" then filed a review petition in CPLA No.358-K/2015 as Civil Review Petition No.50-K/2015 which was dismissed having no grounds for review. The "applicant" then filed an application under section 12(2) CPC before this Court which application was filed prior to the filing of review application and its dismissal.

It is claimed that applicant being a licensee and in occupation of the premises is in fact running a petrol pump and was necessary and proper party and the disposal of the rent application, appeal and the petition as well as decision before the Hon'ble Supreme Court is without jurisdiction. Mr. Ravi Panjani has relied upon an unreported judgment passed in CP. No.S-277/2005 in the case of Naimatullah Shaikh vs. Mst. Noor Bano & others and contended that for all intent and purposes since the stake of the applicant is involved, it should have been made party to the proceeding as in his absence no eviction order could have been passed. He argued that this point of being necessary party was never before the Hon'ble apex Court.

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

There is no privity of contract between the petitioner and applicant who is claiming to be licensee. The status of the applicant is nothing more than a licensee who does not enjoy any right on its own. He has to sail and sink with the lessee and cannot maintain an independent status as being in alleged occupation or possession. Such occupation was only permissive under the Easement Act and the implied possession was always with the lessee who has already lost the cases up to the Hon'ble Supreme Court and hence has to since with the landlord in pursuance of the eviction order maintained by this Court as well as by Hon'ble Supreme Court. The question of being as licensee and its rights was never taken into consideration in the referred CP No.S-277/2005 (Naimatullah Shaikh vs. Noor Banoi & others) and hence it is per-inquirium.

These are the reasons for the short order dated 31.5.2018 by which the listed application was dismissed.

Dated: __6.2018

Judge