

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

**Constitutional Petition No. S – 37 of 2022**

Date	Order with signature of Judge
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For orders on CMA No.239/2022 (Urgency) :  
For order on office objection No. 26 as at 'A' :  
For orders on CMA No.240/2022 (Exemption) :  
For orders on CMA No.241/2022 (Stay) :  
For hearing of main case :

**01.02.2022 :**

Syed Ghulam Hasnain, advocate for the petitioner.

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**NADEEM AKHTAR, J.** – Rent Case No.300/2021 was filed 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. In the said rent case, the impugned tentative rent order was passed by the learned Rent Controller on 13.12.2021 under Section 16(1) of The Sindh Rented Premises Ordinance, 1979, by directing the petitioner to deposit the arrears of rent amounting to Rs.490,500.00 before 30.12.2021 and also to deposit the future monthly rent before the tenth day of each calendar month.

It is contended on behalf of the petitioner that he had purchased the demised premises from respondent No.1 and due to this reason he was not liable to pay the rent to him ; and, Suit No.225/2021 filed by him against respondent No.1 for specific performance is *subjudice* before the Civil Court. It is well-settled that if the tenant asserts that he is no more a tenant as he had purchased the premises, even then he has to vacate the premises and file a Suit for specific performance of the sale agreement ; he would be entitled to possession of the premises in accordance with law only if he succeeds in his Suit ; 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 ; and, till the time that the tenant is able to establish his claim for specific performance on the basis of a sale agreement, the landlord would continue to enjoy the status of being owner and landlord of the premises, and till such time the relationship between the parties would be regulated by the terms of the tenancy. The above view is fortified by Haji Jumma Khan V/S Haji Zarin Khan, PLD 1999 SC 1101, Kassim and another V/S S. Rahim Shah, 1990 SCMR 647,

Muhammad Iqbal Haider and another V/S V<sup>th</sup> Rent Controller / Senior Civil Judge, Karachi Central and others, 2009 SCMR 1396, Syed Imran Ahmed V/S Bilal and another, PLD 2009 SC 546, and Abdul Rasheed V/S Mqbool Ahmed and others, 2011 SCMR 320.

In the present case, it is an admitted position that the Suit filed by the petitioner is still pending and no decree has been passed therein in his favour up till now. It is also an admitted position that compliance of the tentative rent order was not made by the petitioner. It is well-settled that once a tentative rent order is passed in accordance with law, compliance thereof must be made by the tenant. The impugned order is an interlocutory order. It is also well-settled that an interim order passed in rent proceedings under the special rent law cannot be called in question under the constitutional jurisdiction of this Court unless such order is without jurisdiction or is in excess of jurisdiction. Learned counsel for the petitioner has not been able to point out any illegality or infirmity in the impugned order. In the above circumstances, the petition, being misconceived and not maintainable, is dismissed in limine along with listed applications with no order as to costs.

J U D G E