

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CP.No.S-156 of 2022

Date	Order with signature of Judge
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1. For orders on CMA No. 1001 of 2022 (U/A)
2. For orders on CMA No. 1002 of 2022 (Ex./A)
3. For orders on CMA No. 1003 of 2022 (Stay/A)
4. For hearing of main case.

17th February 2022

Syed Asam-ul-Haq, advocate for the petitioner.

Heard learned counsel and perused record.

Being relevant paragraphs of the impugned order dated 31.01.2022 is that:-

“I have gone through article 95 of Qanoon-e-Shahadat Ordinance, section 32 and section 33 of registration act and found that the same provisions of law do not attract in the matter in hand to dismiss/reject the rent case in hand nor learned advocate for opponents’ No. 02, 03 and 04 has satisfied the court thereupon while arguing.

The documents as available on record do not hit the provisions of order 3, Rule 1 and 02 CPC and the other grounds of learned advocate for opponents’ No.02, 03 and 04 have also not persuaded the court to reject or dismiss the ejectment application in hand nor the same are required to discuss in detail.

Apart from that, there is settled law that the case is to be decided on merits rather than on technical aspects of the case and in the instant case, all efforts have been made by the applicant to file the ejectment application in a competent manner. (PLD 2010 Karachi 158, PLD 1961 BJ 96)).

For what has been discussed hereinabove, I have arrived on my considered opinion that the rent case of applicant is required to decide on merits after recording the evidence of the respective parties, resultantly, the application under order VII rule 11 CPC is declined. (2011 YLR 1473, 2010 YLR 104, 2009 YLR 451, 1997 CLC 578 and PLD-1989 Supreme Court 532)

Before parting this order, it is made clear that the observations made herein above are tentative in nature and will not prejudice merits of the rent case.”

Admittedly *lis* is pending before the Rent Controller; petitioner would be at liberty to file all his grounds as raised in application under Order VII rule

11 CPC or written statement. Hence, this is not a case to interfere in the proceedings before the Rent Controller having competent jurisdiction. Accordingly, instant petition is dismissed alongwith pending application.

J U D G E

SAJID