

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.S-17 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection
2. For orders on M.A. No.95/2020
3. For orders on M.A. No.96/2020
4. For hearing of main case

08.03.2021

Mr. Parkash Kumar advocate for petitioner.

Mr. Zafar Iqbal Seenharo advocate for respondent No.1.

Mr. Allah Bachayo Soomro, A.A.G.

Rent Application No.03 of 2013 was filed by respondent No.1 against the present petitioner under Section 15 of the Sindh Rented Premises Ordinance, 1979, seeking eviction of the petitioner on the ground of default. The said application was contested by the petitioner, however, it was allowed by the rent controller, and the appeal filed by the petitioner against his eviction was dismissed by the learned appellate court vide impugned order dated 17.12.2019 (page 347). This constitutional petition has been filed by the petitioner against above concurrent findings.

The petitioner has all along pleaded that he was inducted as a tenant of the demised premises by its owner Waheed Bux and after the demise of said Waheed Bux his widow viz. Mst. Zainab executed an agreement in his favour. Thus he has all along claimed that he is the tenant of the original owner of the demised premises. On the other hand, respondent No.1 has all along pleaded that the demised premises were purchased by him from the surviving legal heirs of late Waheed Bux viz. his son and four daughters. Thus it was/is his case that being the owner / landlord of the demised premises, he was entitled to receive rent and due to non-payment of rent, he was entitled to file eviction application in respect thereof against the present petitioner / tenant. In the above mentioned rent application before the rent controller, one Muhammad Feroze filed an application under Order I Rule 10 C.P.C. praying that he may be joined therein as a necessary party as he had purchased the demised premises from the legal heir of late Mst. Zainab, the widow of late Waheed Bux / original owner. The said application was

dismissed by the rent controller and F.R.A No.15 of 2015 filed by him was also dismissed by the appellate court.

During the course of hearing, it transpired that F.C. Suit No.184 of 2015 has been filed by the said Muhammad Feroze and six (6) others against the present respondent No.1 Muhammad Tahir and the relevant officials / departments for declaration, cancellation, and permanent and mandatory injunction, praying that the registered sale deed executed in favour of the present respondent No.1 in respect of the demised premises be cancelled. It is stated that the above Suit is sub judice and is at the stage of the evidence of the defendants therein.

After making their respective submissions at considerable length, learned counsel for the parties have consented to the passing of the following order :

1. Present petitioner Muhammad Sadiq, being the tenant of the demised premises / suit property, is a necessary party to F.C. Suit No.184/2015. Therefore, the said Muhammad Sadiq shall be impleaded by the learned trial court in the said Suit as a defendant before proceeding further.
2. The plaintiffs in F.C. Suit No.184/2015 shall be entitled to amend the plaint within fifteen (15) days from the date of joining of the said Muhammad Sadiq.
3. The said Muhammad Sadiq shall be allowed to file his written statement in the aforesaid Suit within the statutory period of thirty (30) days from the date of filing of the amended plaint, whereafter issues in the said Suit shall be amended by the learned trial court according to the pleadings of the parties.
4. F.C. Suit No.184/2015 pending before the learned VIth Senior Civil Judge Hyderabad shall be decided within six (6) months on merits strictly in accordance with law and after providing opportunity of hearing to the parties therein.
5. It is stated that monthly rent of the demised premises is being deposited by the present petitioner Muhammad Sadiq in Rent Application No.513/2020. He shall continue to do so till the question of ownership of the demised premises is decided in the above mentioned Suit. He shall also pay all utility charges / bills on regular basis.

6. Till the final decision of F.C. Suit No.184/202015, possession of the tenant Muhammad Sadiq in respect of the demised premises shall not be disturbed.
7. Rights of the parties viz. landlord and tenant in respect of the demised premises shall be subject to the final decision in F.C. Suit No.184 of 2015.

By consent, this petition and listed applications stand disposed of in the above terms with no order as to costs.

JUDGE

Ali Haider