

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

C.P No.S-656 of 2011

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of M.A No.7432/11.
2. For hearing of main case.

22.03.2021

Mr. Bilawal Ali Ghunio, Advocate for petitioner.

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Despite notice, none has effected appearance on behalf of respondent No.1. On the last date of hearing, the matter was adjourned for today with a clear direction that if none appears for respondent No.1 on the next date the matter shall be heard and decided in his absence.

Learned counsel for petitioner being landlord of subject premises being House No.287, situated at Muhallah Gujrati Para Islamabad Phatak, Tando Yousif Road, Hyderabad filed an application under Section 15 of SRPO, 1979 through Rent Application No.09 of 2008 alleging default and personal use of the subject property. The learned Rent Controller after framing the points as to (1) whether the relationship of landlord and tenant do exists between the parties, (2) whether the rented premises in question is required for the personal bonafide use of the applicant and (3) whether the opponent failed to pay monthly rent to applicant w.e.f June, 2007 till filing of instant ejectment application and by a speaking order decided these issues in favour of applicant / petitioner in affirmative and directed the respondent No.1 (tenant) to put the petitioner / applicant in physical peaceful possession of the subject premises within a period of three (03) months vide order dated 07.01.2011. Per learned counsel, the said order of learned Rent Controller was appealed in F.R.A No.05 of 2011 which was decided vide order dated 06.09.2011. Per learned counsel and as noted from the examination of the aforementioned order, the

learned appellate Court was pleased to hold the contrary view solely on the ground that the appellant (tenant) claimed to have filed a Suit bearing F.C Suit No.63 of 2008 for Declaration, Cancellation of documents, Mandatory and Permanent Injunction before 1st Senior Civil Judge, Hyderabad in respect of the said property, per learned counsel that assertion was utterly bogus as no such suit was ever filed. Learned counsel draws attention of this Court towards order dated 01.10.2018 where this Court sought a report from the 1st Senior Civil Judge Hyderabad with regard to the subject suit, which report was accordingly provided vide a letter dated 11.10.2018 informing this Court that no suit bearing No.63 of 2008 [Re: Muhammad Ali v. Meena Yousif] was pending before it. Learned counsel for petitioner submits that merely on such ground of bogus and unfounded suit, the appellate Court reversed the proper, just and sound findings of learned Rent Controller through the impugned order.

Having come on record that the suit bearing No.63 of 2008 upon which the appellate Court reversed the judgment of Rent Controller does not find place and the appellate Court was miss-guided, this Constitutional Petition is accordingly allowed. Resultantly the impugned order dated 06.09.2011 passed by learned 5th Additional District Judge Hyderabad stands set-aside and consequently, the order dated 07.01.2011 passed by the Rent Controller is upheld.

JUDGE

Hafiz Fahad