ORDER SHEET THE HIGH COURT OF SINDH, AT KARACHI

C.P. No.S-76 of 2021

Nanik Ram Jethwani Versus Lakhmichand Wadwani & others

Date

Order with signature(s) of Judge(s)

- 1. For orders on CMA 2316/21
- 2. For hearing of CMA 520/21
- 3. For hearing of main case

Dated: 22.04.2021

Mr. S. Ali Ahmed Tariq for petitioner.

Mr. Mukesh Kumar G. Karara for respondent No.1.

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Urgency granted.

Apparently petitioner has seriously disputed the relationship of landlord and tenant between him and respondent No.1. It is the case of petitioner that he has seriously disputed relationship in the written statement however Rent Controller without framing an issue in this regard passed order under section 16(1) of Sindh Rented Premises Ordinance, 1979 and the appellate Court also ignored such fact and maintained order of Rent Controller. Learned counsel for petitioner submits that in all fairness this issue ought to have been decided independently and the Rent Controller put cart before the horse while the tentative rent order was passed leaving the issue of relationship indecisive.

I have heard the learned counsels at length. Learned counsel appearing for respondent No.1 however has shown grace and submits that if petitioner secures at least 50% of the claimed amount, respondent No.1 would have no objection if the Rent Controller be directed to decide the issue of relationship of landlord and tenant

between the parties within a limited time after framing of issue in this regard.

To this, counsel for petitioner has agreed and submits that petitioner would furnish bank guarantee of Rs.1.7 Million (50% of the amount claimed) in seven working days with the Nazir of this Court and its encashment shall be subject to the outcome of the issue to be resolved by the Rent Controller i.e. whether there exists relationship of landlord and tenant between petitioner and respondent No.1.

Accordingly, by consent the petition is allowed, the orders passed by the two Courts below are set aside and the case is remanded to the Rent Controller with direction to frame an issue i.e. whether there exists relationship of landlord and tenant between petitioner and respondent No.1 and allow parties to record evidence in three weeks' time and decide the issue soon thereafter without any wastage of time. The decision on that issue shall then decide application for tentative rent order and further proceedings. It may however be clarified that in case the bank guarantee is not furnished within the stipulated time, as directed above, the defence shall then deemed to be struck off and the executing Court will be at liberty to proceed with the execution application.

Petition stands allowed in the above terms.

JUDGE