

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

C.P. No.S-1169 of 2017

Nusrat ullah Khan
Versus
Shahid Aslam & others

Date	Order with signature of Judge
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1. For orders on CMA 5771/17
2. For orders on CMA 5772/17
3. For hearing of main case.

Dated: 30.10.2017

Mr. Muhammad Habib Jalib for petitioner.

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Muhammad Shafi Siddiqui, J.- This petition is against the concurrent findings of two Courts below. The Rent Controller passed the order for ejectment of the petitioner dated 27.02.2016 under section 16(2) of Sindh Rented Premises Ordinance, 1979 by striking of defence of the petitioner which order was maintained by the Appellate Court vide impugned judgment dated 28.04.2017.

Learned counsel for the petitioner against concurrent findings of two Courts below stated that there was an agreement of sale between petitioner and respondent No.1 and hence the possession was given in part performance, as such the tenancy agreement, relied upon by the Rent Controller as well as by the Appellate Court, is a fictitious and forged document and so also the rent receipts.

I have heard the learned counsel and perused the material available on record.

Though this petition is against the concurrent findings of two Courts below, yet I perused the record and found that the alleged sale agreement does not reflect that he/petitioner was given possession in

part performance of the agreement. The possession was to be handed over on payment of full sale consideration when he undertook to pay in installment. How then plea of handing over possession in part performance be accepted. The alleged payment towards initial sale consideration was also all in cash. He could have defended the application after complying the tentative rent order. There is no reason to interfere in the concurrent finding of two Courts below. There was no justification apparently available for handing over possession of the premises before such payments. The petition is as such dismissed in limine along with listed applications. However, the petitioner is at liberty, if he so desires, to pursue his case and/or avail the remedy of specific performance in appropriate forum, in case it is still pending. The Court trying suit for specific performance may not be influenced by any observation here.

Above are the reasons of my short order dated 30.10.2017.

Dated:

Judge