

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

C.P No.S-110 of 2022

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DATE ORDER WITH SIGNATURE OF JUDGE

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1. For orders on office objection
2. For hearing of MA 411/2022
3. For hearing of main case

29.04.2022

Mr. Faizan Ahmed Memon advocate for petitioner.

Mr. Shamsuddin Memon advocate for respondent No.1.

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Vakalatnamas of M/s Faizan Ahmed Memon and Shamsuddin Memon are taken on record.

Against the concurrent findings of two courts below arising out of the orders of rent controller and appellate court in FRA No.54 of 2021, the contention of the petitioner's counsel is that while they were enjoying premises as being tenant they entered into an agreement of sale without surrendering the possession. This could hardly be a defence as the protection u/s 53-A of the Transfer of Property Act has to be specific that the possession was given in part performance. Even otherwise, it is upto civil court where suit for performance is pending to consider if the possession is protected under the aforesaid provision of law read with agreement apart from other defences of respondent. However, notwithstanding above, the petitioner was required to make payment of the rent till such time the rights are determined in civil suit, which he failed. Hence, after hearing the matter at length, petitioner's counsel has requested that a reasonable time of six months be given to which respondent's counsel has agreed provided that he would pay the rent in advance and no damage be caused to the premises. Accordingly, I dispose of this petition along with pending application with the directions that the executing court may not dispossess the petitioner before expiry of six months' time provided he continues to pay rent in advance on or before 5<sup>th</sup> of each calendar month. After expiry of this six months, if the petitioner failed to hand over the possession writ of possession shall be issued without notice along with police aid with permission to break open the lock if required. Similarly if rent is not paid in the above terms, writ may be issued in the above terms.

JUDGE