

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

Suit No.989 of 2020

<b>Date</b>	<b>Order with signature of Judge</b>
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For hearing of CMA 6911/20

**Dated: 14.09.2020**

Mr. Abid Hussain Shirazi for plaintiff.

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This building apparently was declared dangerous vide letter/notice of ejectment dated 22.07.2020. It is contended by Sindh Building Control Authority in the aforesaid notice that the Technical Committee on Dangerous Buildings has opined that the building is ruinous, dilapidated and in dangerous condition, which is beyond repair and unsafe for human habitation.

The only defence of the plaintiff is that (a) plaintiff being tenant was not served with any notice that the building was declared as a dangerous by the Technical Committee of Sindh Building Control Authority and (b) it was never inspected by the members of the Technical Committee on Dangerous Buildings to declare it as dangerous. Such contention/defence is factual in nature and as against prayer for interim injunction; they weigh lighter than the declaration made in the notification declaring it as dangerous. Lives of occupants are more precious than the injunctive relief of plaintiff on any technical ground or statutory compliance.

Plaintiff insisted that he should continue to be in occupation of the building which is allegedly declared as dangerous. The case, as pleaded for interim relief, cannot be at par with prima facie case or with rest of the two ingredients i.e. irreparable loss and balance of inconvenience. It amounts to risking the lives of all those occupants of

the building. There is every possibility that this building was rightly declared as dangerous and hence interim order of the nature, as claimed by the plaintiff, cannot be granted in the circumstances of the case. Plaintiff however reserves his right insofar as challenge to the notification, that deals with building being declared as dangerous is concerned and may ask for reconstitution of the committee but interim relief of the nature as prayed for, cannot be granted.

In view of above, I do not find any of the three ingredients required for grant of injunction to be with the plaintiff. I, therefore, vacate the interim order and dispose of the listed injunction application with the observation that plaintiff may pursue his case in terms of Regulation 7.7 of Karachi Building & Town Planning Regulations, 2002 read with section 14 of Sindh Building Control Ordinance, 1979, in case plaintiff wants reassessment of the Committee, as he has not received any notice being occupant/tenant of the premises in question. However, the interim relief of the nature, as prayed, cannot be granted till such reassessment is made as the lives of the occupants cannot be put at risk.

Regulation 7.7 of the *ibid* Regulations 2002 does not require absolute notice to the occupant/tenant. It provides that if the authority considers it necessary for the public safety and if the danger appears to be imminent, the authority may forthwith take such steps as may be required to avert the damages including the eviction without notice from such building of all the occupiers thereof. Thus, claim of the plaintiff to have a notice before such assessment was made is not absolute. I leave it open to the plaintiff to move any such application for the constitution of the Committee and the reassessment, however, till such time the reassessment is made their occupation cannot be justified. In case such application is filed by the plaintiff with the authority for constitution of the Committee and reassessment that may be heard and decided in accordance with law at the earliest, preferably within eight weeks of its

institution/filing. Similarly, I deem it appropriate to restrain the defendants/landlord from creating third party interest or from handing over possession of the premises in question in case occupants/tenants chose to vacate the premises for above reassessment and the case of restoration of possession shall be automatic, once the report comes in favour of petitioner.

The application stands disposed of in the above terms.

**Judge**