

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CP No.S-1027 of 2021

DATE

ORDER WITH SIGNATURE OF JUDGE

Fresh Case

1. For orders on CMA No.6769 of 2021
2. For orders on CMA No.6770 of 2021
3. For hearing of main case
4. For orders on CMA No.6771 of 2021

31.12.2021

Mr. Mehmood Habibullah, Advocate for the petitioner

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- 1]. Urgency granted.
- 2]. Exemption is granted subject to all just exceptions
- 3-4]. Although the judgment was passed by the rent controller in so far as the eviction application is concerned after effecting service through all modes including pasting and publication, the petitioner herein has moved an application under Section 12 (2) CPC on the count that it was not a valid judgment since it has not dealt questions issue-wise and has relied upon interpretation of the word `validity` as available under Section 12 (2) CPC.

Perhaps this interpretation as applied is not available since the validity of the judgment is to be couched on the touchstone of fraud, mis-representation and want of jurisdiction and not on the basis of the fact that the issues were not framed by the trial court in an ex-parte judgment. What is important for trial court, in an ex-parte judgment, dealing in a case covered by a special law of SRPO, 1979 that all questions arising out of application should be addressed. It was not incumbent upon the rent controller to frame the issues and then deliver a judgment in an ex-parte case. What was required by the rent controller under the circumstances is to address all questions arising out of the application, which he did. In so far as the process of service

is concerned, the record shows that not only service was effected through publication but also pasting was made by the bailiff which in effect is not denied, rather a copy of it is available at page 99 of the file, filed by the petitioner himself.

This being the situation, the orders passed by the two courts below do not require any interference by this court under Article 199 of Constitution of Islamic Republic of Pakistan, 1973, hence, the petition is dismissed alongwith pending application [s].

J U D G E