

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CP.No.S-628 of 2020.

Date Order with signature of Judge

For orders as to maintainability.

02th November 2020

M/s. Adnan Memon and Jam Habibullah, advocate for petitioner.
Mr. Shoaib Ali Khatiyan, advocate for respondent No.1.
Mr. Waseem Iqbal, advocate for respondent No.4

Heard learned counsel for the respective parties.

2. Candidly eviction application filed by the present petitioner was allowed and possession of demised premises is with the petitioner, however, issue remains with regard to chattels of respondent No.4 (M/S Quality Services Station Patrol Pump).

3. Case of the petitioner is that Nazir may be directed to remove the chattels in presence of parties; in Civil Revision application No. 32 of 2020, wherein, the tenant (Shell Pakistan Ltd) consented removal of chattels, however, that revision was dismissed. Respondent No.4 has also filed an application under Section 22-A & 22-B Cr.P.C with regard to lodgment of FIR against the present petitioner (D/H) on the plea that the petitioner is committing theft of his belongings. Respondent No.1 has no objection with regard to removal of chattels in presence of Nazir of this Court. Learned counsel for the respondent No.4 has emphasized over show cause notice issued by KDA which show cause notice has been challenged in CP.No.D-542 of 2012. He has also emphasized over order dated 21.02.2012 wherein no coercive action is ordered to be taken.

3. There is no dispute with regard to status of the petitioner as well legality of the order of eviction; and putting of the petitioner into vacant possession of *premises* as landlord thereof. Here, it is material to add that an eviction order is always meant to put the landlord into possession either by the *tenant* within given period or by operation of law. In either cases, the eviction would not be satisfied if remaining of the *tenant* are there. The tenant, if *himself* vacates then he (tenant) is believed to let the landlord complete possession which always includes taking away / removing all belonging of the tenant. If the possession is ordered through

process of law (*coercive way*) even in that eventuality the official of court is required to prepare an inventory of available things so that such like question, including that of theft, as being raised in instant matter, could not be raised at all.

4. Since respondent No.1, the tenant, is not contesting with regard to removal of chattels; possession is with the petitioner pursuant to judgment passed by the Rent Controller, hence, petitioner being landlord, *legally* cannot be denied from his right of complete possession on the plea of the respondent No.4 that petitioner is committing theft and that he (respondent no.4) has filed application under Section 22-A and 22-B Cr.P.C.

5. Without prejudice to what are the legal disposals of such proceedings, the propriety demands that Nazir shall ensure removal of all chattels relating to Quality Services Station, Patrol Pump (Respondent No.4); such photographs and video clips shall be observed/captured as well an inventory thereof shall be prepared. The Nazir shall ensure service of notice (s) upon all concerned for the scheduled date of removal of the chattels. This be done within ten days' time. Needless to mention with regard to challenging of show cause notice and direction, if any, passed by the Division Bench of this Court, it would suffice to say that this order shall have no bearing on such proceedings as well consequences thereof which, *legally*, shall have their binding effects. Such aspect was also discussed by the trial Court in detail.

With the above findings, the instant petition is disposed of.

JUDGE

SAJID