

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI
Constitutional Petition No. S – 810 of 2022

Date	Order with signature of Judge
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For orders on CMA No.5439/2022 (Urgency) :
For order on office objections 1 & 5 a/w reply as at 'A' :
For orders on CMA No.5440/2022 (Exemption) :
For orders on CMA No.5441/2022 (Stay) :
For hearing of main case :

19.09.2022 :

Mr. Muhammad Rehman Ghous, advocate for the petitioner
a/w Mr. Shoaib Ahmed Khosa advocate.

NADEEM AKHTAR, J. – This Constitutional Petition has been filed by the petitioner under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. However, it has been filed only against private persons and none of the Provincial Governments or the Federal Government and or their functionaries has been cited herein as a respondent ; and, the petitioner has not impugned any order of any sub-ordinate court or any action of any Provincial or Federal Government or their functionary. He has pleaded in the petition that he is the sub-lessee of the subject premises ; in Rent Case No.113/2003 between the previous owner and the tenant of the demised premises, fair rent was determined by the Rent Controller under Section 8 of The Sindh Rented Premises Ordinance, 1979, which order was modified by the appellate Court by reducing the fair rent ; such modification was challenged by respondent No.2 before this Court in C.P. No.S-1400/2017 ; as the petitioner was not a party in the said petition, he filed an application therein under Order I Rule 10 CPC which was dismissed by this Court with direction to him to avail his remedy before the civil Court ; and, two applications were filed by the present respondents in the said C.P. No.S-1400/2017 seeking withdrawal of rent which applications are still pending in the said petition before this Court.

2. On the basis of the above averments, the following relief has been sought by the petitioner :

- “ 1. *It is therefore prayed that this Honorable Court may be pleased to order for withdrawal of rent (if any) in favour of petitioner.*
2. *The withdrawal of rent by respondent in C.P. No.1400/2017 be stayed.*

3. *Any other relief deem proper and appropriate in the circumstances of the case.”*

3. Perusal of the prayer made by the petitioner shows that after dismissal of his application in C.P. No.S-1400/2017 for joining the said petition as a party, which order has attained finality, he is now seeking a direction / relief in his favour in respect of the rent lying deposited with the Nazir of this Court in pursuance of the order passed by this Court in the said C.P. No.S-1400/2017 ; and, he is also seeking a restraining order against the respondent in the said petition from withdrawing the amount of rent lying deposited in the said petition. On my query as to how the petition is maintainable and how a writ can be issued by this Court in respect of the subject matter and proceedings of another petition pending before this Court, counsel for the petitioner vehemently insists that the petition is maintainable and the petitioner, being the lawful owner of the subject premises, is entitled to such relief. He concedes that the petitioner has not initiated any proceedings up till now before the competent civil Court seeking a declaration that he is the lawful owner of the subject premises.

4. The contents of this ill-advised and misconceived petition and the relief sought herein are shocking and the reply of the counsel regarding its maintainability is even more shocking and shows complete ignorance of law and judicial norms and procedure on his part. The petition, on the face of it, is frivolous, not maintainable and is a clear, blatant and deliberate abuse of the process of this Court. Accordingly, the petition is dismissed in limine along with listed applications with cost of Rs.25,000/- (Rupees twenty five thousand only) to be deposited by the counsel in the Sindh High Court Clinic without fail within fifteen (15) days.

J U D G E