

Order Sheet

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No. S-472 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on office objection
2. For orders on MA-2012/22 (exemption)
3. For orders on MA-2013/22 (stay)
4. For hearing of main case

27.02.2023Mr. Aqeel Ahmed Siddiqui advocate for the petitioner.

Rent Application No.62 of 2019 was filed by respondent No.1 against respondents 2 and 3 and the present petitioner seeking eviction of respondents 2 and 3 from the subject premises on the grounds of personal need and default in payment of monthly rent and utility bills. It was stated by respondent No.1 in his aforesaid application that he is one of the co-owners of the subject property and the present petitioner / opponent No.3 was also a co-owner and was in possession of the first floor thereof. However, no relief was sought by respondent No.1 against the petitioner. On the contrary, it was prayed, inter alia, by him that permission may be granted to him as well as to the petitioner to withdraw in equal proportion the rent deposited in Court by respondent No.1.

Vide tentative rent order dated 06.11.2019 passed on the application filed by respondent No.1 under Section 16(1) of the Sindh Rented Premises Ordinance, 1979 ('the Ordinance'), respondents 2 and 3 were directed by the Rent Controller to deposit the arrears of rent and future monthly rent in terms of the said order, and also to pay utility bills in respect of the subject premises and to submit copies of the paid bills ; and, respondent No.1 was directed not to withdraw the rent deposited by respondents 2 and 3 in terms of the said order. As compliance of the tentative rent order was not made by respondents 2 and 3, respondent No.1 filed an application under Section 16(2) of the Ordinance, which was allowed by the Rent Controller vide impugned order dated 23.11.2020 whereby the defense of respondents 2 and 3 was struck off and they were directed to hand over vacant and peaceful possession of the subject premises to respondent No.1 within forty five (45) days. First Rent Appeal No.28 of 2020 was filed by respondents 2 and 3 against their order of eviction which was dismissed by the learned appellate Court vide impugned judgment dated 14.04.2022.

Respondents 2 and 3, against whom there are concurrent findings of eviction by the learned courts below, have not been impugned the said concurrent findings. The petitioner who, being the co-owner of the subject premises and being in possession of the first floor thereof, was impleaded by respondent No.1 as opponent No.3 in the rent application as a necessary party. As noted above, no relief was sought against him by respondent No.1 in his rent application. On the contrary, respondent No.1 had prayed that both the co-owners i.e. respondent No.1 and the petitioner should be allowed to withdraw in equal proportion the rent deposited in Court by respondents 2 and 3. Perusal of the tentative rent order dated 06.11.2019 shows that the interest of the petitioner was protected by the Rent Controller by directing respondent No.1 not to withdraw the rent deposited by respondents 2 and 3. Moreover, the direction to deposit arrears of rent, future rent and utility bills was not given to the petitioner, nor was any order of eviction passed against him. In the above circumstances, the petitioner cannot be deemed to be an aggrieved person by any stretch of imagination. Accordingly, the petition, being mis-conceived and ill advised, is dismissed along with listed applications with no order as to costs.

JUDGE