

ORDER SHEET
THE HIGH COURT OF SINDH, KARACHI
C.P. No.S-431 of 2023

Dated: Order with signature of Judge(s)

- 1.For orders on CMA No.3398/2023.
- 2.For orders on office objections No.1,2,3,14,19,25 & 27 as at flagged.
- 3.For orders on CMA No.3399/2023.
- 4.For hearing of Main Case.

05.05.2023:-

Petitioners No.1 and 3 are present in person.

It seems that a Rent Case No.14 of 2016 was heard and decided by the IInd Senior Civil Judge Karachi (Malir) and by which the Respondent No.6 had moved an application for the eviction of the Respondent No.1 and which has been granted. Pursuant to that application Rent Execution No.06 of 2017 was filed by the Applicant before the IInd Senior Civil Judge Karachi (Malir) and eviction was ordered. Thereafter an application under Section 151 of the Code of Civil Procedure, 1908 was preferred by the Decree-Holder/ Respondent No.6 on 24.11.2020 requesting that the articles of the Judgment-Debtors i.e. Respondent No.1 and Petitioner No.1 be removed and retained in a secured place. On 20.08.2021 an order was passed on that application in Rent Execution No.607 of 2017 by the IInd Senior Civil Judge Karachi (Malir) directing that an inventory be made of the goods lying in the rented premises and shifted to a room at Police Station Quaidabad till further order of that Court. An application thereafter was preferred under Section

152 of the Code of Civil Procedure, 1908, seeking the amendment of this order, which stated as under:-

“ It is most respectfully requested to this Honourable Court on behalf of the above named Judgment Debtor No.2, that this Honourable court may be pleased to correct the order dated 20.08.2021, as in the application of 151 CPC behalf of decree Syed Kalam Raza on 24.11.2020 who has submitted before this Honourable court and in which mentioned that the suitable place of the articles is Police station but the suitable place of the articles is not the police station articles it is at the house of Judgment debtor No.1, on 12.01.2015 as per tenancy agreement, House Hold Articles/ dowry articles/Gold and silver Jewelry/Goods were taken from the house of the Judgment Debtor No.1 at House No.A-212, 36-B, Zamanabad Landhi No.4, East Karachi. It is pertinent to mention here that the appeal No.112/2021 Before Honourable High Court Sindh At Karachi of Illegal Dispossession Act No.96/2020 against Debtor No.1, and Decree Holder & Sirajuddin S/o Fyazuddin through attorney of debtor No.1, is already pending at Honourable High Court of Sindh At Karachi as the Honourable Court noticed them but they are deliberately not presenting at Honorable High Court.

P R A Y E R

It is prayed that this Honourable court may be pleased to direct / appoint the Nazir of this Honourable Court to deliver the articles at the house of the Debtor No.1 at House No.A-212, 36-B, Zamanabad Landhi No.4, East Karachi. And direct to police officials of P.S Quaidabad to provide pictures and movie of the articles, on urgent basis.”

It would seem from this application it has been prayed that the house hold articles/dowry articles/gold and silver jewelry/goods that were reportedly available in the subject tenement and have since been relocated to a room at P.S. Quaidabad be relocated to House No.A-212, 36-B, Zamanabad Landhi No.4, East Karachi,

which is the purportedly the residence of the Respondent No.1 (who is or was the husband of the Petitioner No.1). It is apparent that:

- (i) Respondent No.1 has not moved any application before the Executing Court directing that the house hold articles/dowry articles/gold and silver jewelry/goods to be relocated from his house;
- (ii) Respondent No.1 and the Petitioner No.1 are estranged from each other and are facing marital issues.

I have perused the impugned order which has clarified that *“the applicant herself chooses to remain absent when she had an opportunity to the get such favourable order in her favour.”* Today during the Course of the hearing the Court asked her as to whether she wanted her articles or not, she had stated that she will not give a response to this query.

The IInd Senior Civil Judge Karachi (Malir) in Rent Execution No.06 of 2017 clearly cannot direct that the goods that are currently located in a room at Police Station Quaidabad and which are not being claimed by the Respondent No.1 can be relocated to the Respondent No.1 residence on an application by the Petitioner No.1 especially when it is apparent that the Petitioner No.1 and the Respondent No.1 are estranged from one another.

In the facts and circumstances, I am clear that the order dated 05.04.2023 was passed correctly by the Vth Additional District Judge Karachi (Malir) in Civil Misc. Appeal No.Nil of 2022. In the event, the petition is dismissed as not maintainable along with all listed applications.

