

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
C.P. No.D-1167 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(s)
------	----------------------------------

For orders on office objections.
For orders on M.A. No.6413/2023.
For hearing of M.A. No.6414/2023.
For hearing of main case.

29-08-2023

Mr. Sagar Ali Sahito advocate for the petitioner.

Mr. Allah Bachayo Soomro, Additional Advocate General Sindh.

Mr. Shams-ud-Din Rajper Deputy Attorney General.

=

Learned AAG files written statement /objections on behalf of respondent No.3 and Mr. Dileep J. Mulani advocate files vakalatnama on behalf of respondent No.1 which are taken on record.

It seems that one Mr. Muhammad Moin Khan advocate appeared on 21.07.2022 and undertook to file vakalatnama and written statement; he did not appear later. Perhaps the presiding officer thought that service was not affected and/or perhaps may be a collusive undertaking, he then passed order and issued summon on 13.09.2022 upon defendant No.1; meaning thereby that the earlier attempt of service and undertaking were not taken into consideration. The order of 13.09.2022 whereby summons were ordered prevailed and on 20.09.2022 the order depriving the petitioner from filing written statement on the strength of an earlier undertaking, prior to order dated 13.09.2022 is of no consequence and should not have taken into account. When confronted learned counsel for respondent No.1 concedes however submits that it calls for the levy of appropriate costs since it is delayed by petitioner deliberately. We are of the view that separately, eviction orders have been passed under the Rent Ordinance and may be, to circumvent the proceedings initiated under the Sindh Rented Premises Ordinance, 1979 these proceedings under Specific Relief Act may have been

initiated which may be perused and thrashed out by the civil court. We are of the view that the order whereby the side of the petitioner for filing written statement was closed and maintained by appellate court is not lawful and sustainable under the law. The both orders, in view of the above observations, are set-aside directing the petitioner to file written statement in a week's time the matter shall then proceed in accordance with law. The petition stands disposed of in the above terms.

J U D G E

J U D G E

Irfan Ali