

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
Constitution Petition No. D- 2496 of 2022

Date

Order with signature of Judge

**PRIORITY.**

- 1) For hearing of Misc. No. 11222/22.
- 2) For hearing of main case.

**08.05.2024.**

Mr. Altamash Arab Advocate for the Petitioner.  
Mr. Zeeshan Adhi, Additional Advocate General.  
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**MUHAMMAD JUNAID GHAFER J.** Through this petition, the  
Petitioner has sought the following relief(s):-

**A. DECLARE**

- (i) That the documents annexed as Annexure B/1 to Annexure B/3 are Tenancy Agreements and not Lease Deeds.
- (ii) That the Respondents have no jurisdiction as to determine whether the documents annexed as Annexure B/1 to Annexure B/3 are Tenancy Agreements and not Lease Deeds as the Tenancy Agreements were executed outside of Pakistan.
- (iii) That the Notice dated 07.04.2022 has been issued without jurisdiction and lawful authority and is unconstitutional and of no legal effect therefore, liable to be set aside;

**B. RESTRAIN**

- (i) The respondents from taking any coercive action as against the Petitioner.

**C. GRANT**

- (i) Costs
- (ii) Such other relief as may be deemed necessary in the circumstances of the case.

Today, Petitioner's Counsel has been confronted as to the very maintainability of the instant petition inasmuch as a mere Notice issued under Section 40-A(2) of the Stamp Act, 1899 has been impugned; whereby, neither any final determination has been made; nor any adverse order has been passed, rather the Petitioner has been required to produce certain documents in

original. In response, learned Counsel has contended that no such notice can be issued for impounding the agreement in question and response has already been given to the Respondents.

However, in our considered view, mere issuance of a notice does not give rise to a cause of action to challenge the same by invoking the Constitutional jurisdiction of this Court and to seek a declaration that the documents in question are mere *Tenancy Agreement* and not *Lease Deeds*. We are afraid such a declaration cannot be given by us in a constitutional petition as it may require a factual determination including leading of evidence. Nonetheless, even otherwise notice impugned is not by itself an adverse order and can be responded by the Petitioner through a reply; therefore, the Petition is misconceived and not maintainable. Before passing the order, the Petitioner's Counsel was asked not to press the petition and Respondents will be directed to decide the matter in accordance with law; however, such concession has not been accepted. This appears to be a fit case to impose costs; however, showing restraint, the Petitioner is warned to be careful in future.

In view of the above facts and circumstances, the Petition is misconceived and does not appear to be maintainable; and therefore was dismissed today in the earlier part of the day by means of a short order and these are the reasons thereof.

**J U D G E**

**J U D G E**

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