

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**CP No.S-481 of 2023**

Abdul Rehman alias	.....	Petitioner
	Vs.	
Fazle-e-Haq & others	.....	Respondents

Mr. Muhammad Ayoub Chaniho, advocate for petitioner .  
 Mr. Muhammad Ilyas Khan Tanoli, advocate for respondents No.1 & 2

**Date of hearing**      **12.08.2024.**  
**Date of order:**      **27.08.2024**

**ORDER**

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**MUHAMMAD IQBAL KALHORO J:** Petitioner filed a rent case against respondents No.1 and 2 for ejection and fixation of fair rent in respect of Bungalow No.A-597, measuring 294 sq. yds. ground first floor, Huma Garden, Karachi, on the ground of default. He examined himself in support of his case, whereas, from other side opponent No.1 (Fazal Haq Khan) was examined in support of his written reply. He claimed to be the tenant of Abdul Sattar, who had put them into possession of the said bungalow on rent basis. The said rent case was dismissed by the learned Rent Controller on 13.05.2022 holding that there was no evidence showing that petitioner had put the respondents into possession of demised premises as tenants, nor was there any evidence that there were his tenants. He filed appeal against such order, which has been decided by the impugned order dated 17.04.2023 dismissing the same.

2. I have heard, learned counsel for the parties. Learned counsel for the petitioner has called in question vires of both the judgments and has relied upon the case laws reported as **SCMR 2006 1068, PLD 2009 SC 546, SCMR 2024 781, SCMR 2011 320, CLC 2023 1817, YLR 2019 1181, CLC 2016 120, CLC 2021 1780 and PLD 1983 SC 53.** He submits that both the Courts below have erred in holding that respondents are not the tenants of the demised premises.

3. On the other hand, learned counsel for the respondents No.1 and 2 has supported the impugned judgments.

4. I have read the original rent application filed by the petitioner in which he has stated that respondents, who are police officials, have illegally occupied his said bungalow in connivance with Abdul Sattar after blackmailing the latter. In the entire application, he has not stated a word about existence of relationship of tenancy between him and the respondents. As per his application, he resides in UK, and on his return to Pakistan in the year 2011, he found respondents in

occupation of the demised premises and paying rent to Abdul Sattar. It is not out of place to state here that reportedly there is a dispute between the petitioner and Abdul Sattar over ownership of the premises and the latter has already filed a suit for specific performance of contract against the petitioner before this Court on original side in which reportedly a stay order is operating. As per learned counsel for the respondents in the suit said Abdul Sattar has stated in the plaint that after paying entire sale consideration to the petitioner, he was put into possession in the premises by him. According to him, the respondents were put into possession in the demised premises by Abdul Sattar, and hence, they are paying rent to him.

5. Be that as it may, the finding of both Courts below that there is no evidence showing that respondents are the tenant of the petitioner is correct and based on proper appreciation of material brought on record. The petitioner has not iterated in the rent application that respondents are his tenants or there exists any tenancy agreement between them. Over the sale and purchase of the said bungalow, a dispute in the shape of a civil suit is already pending between him and Abbdul Satar, who had admittedly put respondents into possession of the property, allegedly after getting its possession from the petitioner and receiving rent from them. It appears that the petitioner filed the rent application considering it an easy way to take possession of the disputed property from Abdul Sattar, on whose behalf the petitioners are holding the possession of the said bungalow as tenants. But while doing so, the petitioner has failed to reply the basic question of existence of relationship of tenant and landlord between him and the respondents.

6. The concurrent findings on such factual aspect of the case, have not been shattered by learned counsel for the petitioner in arguments by pointing out to any material contradicting the same. Learned counsel has also failed to explain that when in the rent application, the petitioner himself has revealed that respondents have illegally occupied his said bungalow, why he did not file a complaint under Illegal Dispossession Act, 2005 or a suit under relevant provision of law. As in the said circumstances, it would have been the best and adequate remedy available to the petitioner, I therefore, find no merits in this petition and dismiss it accordingly along with pending application(s).

Petition stands disposed of in above terms along with pending application(s).

Judge