

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
H.C.A No.239 of 2024

Date	Order With Signature Of Judge
1.For orders on Nazir Reports dt 25.1.25 & 8.11.24	
2.For hg of CMA No.70/25	
3.For hg of CMA No.71/25	
4.For order on office objection/reply at A	
5.For hg of main case	
6.For hg of CMA No.1393/24	
03.03.2025.	

Syed Ali Ahmed Zaidi, advocate for appellant.
Mr. Salman Ahmed Kazi, advocate for respondent No. 2.

MUHAMMAD IQBAL KALHORO, J:- Appellant has filed a suit before this Court on Original Side for declaration, permanent injunction and damages against respondents. When this suit was taken up by learned single Judge on 11.06.2024, referring to the controversy and contents in the plaint, learned single Judge observed that suit is not maintainable as it pertains to rental proceedings between the parties. In the last paragraph of the said order, learned single Judge has further observed that “In the circumstances, the only option available to plaintiff to show his bonafide by making advance payment of rent till 31.01.2025.”

Learned counsel for appellant submits that the observation is injurious to the interest of the appellant as it seems that learned single Judge has already made-up his mind that suit is not maintainable; further the plaintiff was directed to make advance payment of rent till 31.01.2025, which has the effect of altering the rent agreement between the parties.

On the other hand, learned counsel for respondent No. 2 submits that as far as last paragraph is concerned, it has already become infructuous because the payment of rent up to 31.01.2025 has already been made by the appellant and deposited with Nazir of the Court.

Be that as it may, we are of the view insofar as observation of learned single Judge that suit is not maintainable, it is tentative in nature not having any binding effect and is subject to outcome of the suit to be decided between the parties on merits. The subsequent assertion has already been acted upon and has thus become infructuous.

Learned counsel for respondent No.2, at this juncture, submits that in compliance of the order passed in appeal, appellant has deposited rent of six months, which is lying with Nazir of this Court, therefore, respondent No. 2 landlady may be allowed to withdraw the same. Order accordingly. However, in future, any application including but not limited to withdrawing the rent deposited with the Nazir shall be filed before the learned single Judge, who would be competent to dispose them of in accordance with law.

The appeal is accordingly disposed of along with pending applications.

JUDGE

JUDGE

HANIF