

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. NO. S-9 / 2014

ORDER WITH SIGNATURE OF JUDGE

- 1) For orders on C.M.A. No. 32/2014.
- 2) For orders on C.M.A. No. 33/2014.
- 3) For katcha peshi.
- 4) For orders on C.M.A. No. 34/2014.

6.1.2014.

Mr. M. Ilyas Khan Tanoli for petitioner.

- 1) Granted.
- 2) Granted subject to all just exceptions.
- 3 & 4) It is inter alia contended by the learned counsel for petitioner that the petitioner is lawful owner of property bearing No. G-25, Block No. 3, measuring 400 square yards situated at KDA Improvement Scheme, Metrovile, Project No. 1, SITE Town, Karachi by virtue of Sale Deed executed between the petitioner and respondent No. 1. It is further contended that the said property was let out under a rent agreement dated 6.5.2008. Thereafter the respondent No. 1 defaulted in payment of rent and a rent case was filed vide No. 113/2009 in which a tentative rent order was passed directing the respondent No. 1 to deposit rent at the rate of Rs. 30,000/- per month. The said order was challenged by the respondent No. 1 in C.P. No. 30/2010 and this court vide its order dated 18.2.2010 modified the orders of the rent controller and directed respondent No. 1 to deposit the rent at the rate of Rs. 15000/- per month. The petitioner filed Civil

Appeal No. 33-K/2010 which was disposed of by consent of the parties on 6th August 2010 in the following terms:-

“ From the date of Rent order, Respondent will deposit a sum of Rs. 30,000/- per month in the office of the Rent Controller, which shall not be withdrawn by the petitioner till final disposal of the Rent Case. For this purpose 30 days time is granted to the Respondent.

The Rent Controller will proceed with the case expeditiously and will ensure its disposal within three months from the date of communication of this order.”

It is further contended by the learned counsel that the respondent No. 1 failed to abide by the order of the Supreme Court as reproduced above. Subsequently, an application under section 16(2) of the Sindh Rented Premises Ordinance, 1979 was filed by the petitioner which was decided vide order dated 6.4.2011 and the respondent No.1 was directed to vacate the property in question. The respondent No. 1 preferred First Rent Appeal No. 12/2011 which was dismissed, against which a Constitution Petition No. S-44/2012 was preferred before this court and the same was also dismissed vide order dated 8.2.2012. The respondent No. 1 then challenged this order before Hon'ble Supreme Court vide CPLA No. 74-K/2012 and the same was also dismissed vide order dated 30.4.2012. It is further submitted by the learned counsel that thereafter Execution No. 3/2012 in Rent Case No. 113/2009 was also filed and the rent controller vide its order dated 3.12.2013 held that the decree holder is entitled to an order to execute the ejectment order and subsequently issued writ of possession in respect of the said

property. Such order of the rent controller was further challenged in First Rent Appeal No. 18/2013 and vide impugned order dated 23.12.2012 learned IVth Additional District Judge Karachi West has suspended the operation of the order passed in Execution. Learned counsel submits that the only reason which has prevailed upon the learned Additional District Judge is the pendency of IInd Appeal No. 08/2012 before this court. Learned counsel submits that no orders are operating in the said appeal and as such the appellate court was misdirected in suspending the order of the rent controller for issuance of writ of possession.

Contention requires consideration. Let notice be issued to the respondent No. 1 for 23.1.2014. In the meantime the operation of the impugned judgment is hereby suspended.

J U D G E

ARSHAD/