

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Suit No.404 of 2014

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

For orders on Commissioner's report

26.01.2015

Mr. Yawar Farooqui, Advocate for Plaintiff
Mr. Saadat Yar Khan, Advocate for Defendant

This case is listed for orders on the Commissioner's report dated 05.06.2014. The perusal of the file and the contentions of the learned counsel for the parties suggest that this issue is arising out of the rent agreement between the plaintiff and the defendant and it is to the effect that probably the plaintiff, who was put in possession of the property for a specific purpose, has made additions, alterations and caused damage to the property, failed to pay the utilities in terms of the rent agreement, defaulted in payment of rent and also filed a suit seeking declaration, recovery, injunction and damages against the defendant. The plaintiff has repeatedly shown his willingness to handover/return the property to the defendant but the defendant is reluctant to receive/take over the same because according to the defendant the plaintiff has made some additions and alterations and rent has not been paid to the defendant in terms of the rent agreement. It may go without saying that in this suit the defendant cannot claim payment of utility charges and rent of the premises, if the defendant is so advised, he may approach the proper forum, i.e. the learned rent controller, for payment of rent, utility charges as well as ejectment of the plaintiff from the suit premises as there is every provision in the Sindh Rented Premises Ordinance, 1973, whereby the plaintiff may approach the learned Rent Controller to seek appropriate remedy against the landlord. Since neither of the two is willing to retain and accept/take over the possession of the property, therefore, whether the tenant/plaintiff is liable to make the payments to the defendant or otherwise, the plaintiff is directed to handover the property to the Nazir of this Court. The present state of the property

is that during the pendency of the instant suit, the landlord/defendant has already filed suit for damages, whatever damage has been done to the property that right will continue to be secured by them in terms of their suit. In the circumstances, in my humble view the rights of both the parties are secured by filing their respective suits and if the defendant takes over the property without prejudice to his right it will make no difference. The possession of the suit property should be handed over to the Nazir at the earliest after notice to the other side.

JUDGE

Gulsher/PA