

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Const. Petition No. S-605/2024

Date	Order with signature(s) of Judge(s)
Hearing/Priority.	
1.	For hearing of CMA No. 5082/2024.
2.	For hearing of main case.

20.08.2026.

Mr. Ghulam Muhammad, Advocate for the Petitioner.
Mr. Ziauddin Qureshi, Advocate for the Respondent No.1.

This petition is directed against the Order dated 04.12.2023 passed by the learned Court of Rent Controller-XV, Karachi South (Trial Court) in Rent Case No.1043/2022 [*Mst. Asma versus Muhammad Hussain*], wherein, the rent case was allowed in terms of Section 16(2) S.R.P.O., 1979 and the First Rent Appeal No. 382 of 2023 [*Muhammad Hussain versus Mst. Asma*], was dismissed vide Judgment dated 19.04.2024 passed by the learned Vth Additional District Judge, Karachi (South) (Appellate Court).

2. Learned counsel for the Petitioner submits that Petitioner was the owner of the property there existed no relationship of tenant and landlord between the parties and the Petitioner has preferred a Suit No.74 of 2023 which is pending adjudication before the learned trial Court, wherein, Respondent/Landlord has appeared and filed his Written Statement and the matter is likely to conclude soon. He submits that since the Petitioner was the owner of the property, therefore, he did not comply with the Order passed on an application under Section 16(1) S.R.P.O., 1979. He prays that current findings may be set aside and the Rent case may be dismissed.

3. Controverting the submissions, learned counsel for Respondent No.1 submits that the relationship of landlord and tenant between the parties was duly substantiated through documentary evidence and that, upon perusal of the material available on record, the learned trial Court passed an Order under Section 16(1) of the S.R.P.O., 1979; that failure to comply with the said Order entailed the penal consequences provided under Section 16(2) of the S.R.P.O., 1979. He submits that there is no illegality or infirmity in the concurrent findings of fact and law recorded by the Courts below and, therefore, prays for dismissal of the instant petition.

4. Heard learned counsel for the parties and perused the material available on record.

5. It appears from scrutiny of the record that the rent case was filed by the Respondent on the ground of default in payment of rent. During the proceedings, an application under Section 16(1) of the S.R.P.O., 1979 was filed, which was allowed vide Order dated 11.09.2023. The learned trial Court granted ample opportunity to the Petitioner to comply with the Order passed on the application under Section 16(1) of the S.R.P.O., 1979; however, upon his failure to comply therewith, the defence of the Petitioner was struck off and consequently the Order dated 04.12.2023 was passed.

6. Section 16 of the S.R.P.O., 1979 provides that the Rent Controller shall determine the arrears of rent and direct the tenant to deposit the same within the stipulated period, besides directing him to deposit the monthly rent regularly. Failure to comply with such an Order entails the penal consequences of striking off the defence and passing an order for putting the landlord into possession of the premises. For ready reference, Section 16 of the S.R.P.O., 1979 is reproduced as under:

16. Eviction of tenant:-

(1) Where a case for eviction of the tenant has been filed, the Controller shall, on application by the landlord and after such summary inquiry as he deems fit to make, determine the arrears of the rent due and order the tenant to deposit the same within such period as the Controller may fix in this behalf and further direct the tenant to deposit monthly rent regularly on or before the tenth of every month, until final disposal of the case.

Provided that the Controller may direct that the arrears of rent and approximate rent may be paid to the landlord through pay order, or by any other mode agreed to by the parties, or as directed by the Controller.

(2) Where the tenant has failed to deposit the arrears of rent or to pay monthly rent under sub-section (1), his defence shall be struck off and the landlord shall be put into possession of the premises within such period as may be specified by the Controller in the order made in this behalf.

(3) Where the rent has been deposited under this section, it shall, subject to such order as the Controller may make in this behalf, be paid to the landlord at the conclusion of the case or on such earlier date as may be specified by the Controller.

7. From a perusal of the above provisions, it is clear that non-compliance with an Order passed under Section 16(1) of the S.R.P.O., 1979 entails the penal consequences prescribed under Section 16(2) thereof. The learned Courts below have rightly dealt with the matter and concluded that the Petitioner failed to comply with the Order passed under Section 16(1) of the S.R.P.O., 1979.

8. The mere filing of a Suit seeking a declaration with regard to title of the property would not, in any manner, affect the proceedings before the Rent Controller. Once an Order under Section 16(1) of the S.R.P.O., 1979 has been passed, an obligation is cast upon the tenant to deposit the rent within the stipulated time, and failure to comply with such Order entails the penal consequences prescribed under Section 16(2) thereof. Reliance in this regard may be placed on the judgment reported as PLD 2011 SC 331 [*Ibrahim Trust, Karachi vs. Shaheen Freight Services*].

9. In view of the foregoing discussion, no infirmity or illegality has been pointed out in the concurrent findings of fact and law recorded by the learned Courts below. As such, this petition, being devoid of merit, is *dismissed* with no order as to costs.

JUDGE

Jamil
Approved for reporting.