

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.S-1960 of 2016

Date	Order With Signature Of Judge
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Fresh case

1.For orders on CMA No.8714/16

2. For hg of main case

3.For orders on CMA No. 8716/16

27.01.2017.

Mr. Zahid Hussain, advocate for petitioner.

1. Granted.

2&3. The respondent No. 1/ applicant/ landlord filed the rent ejectment application under section 15 of Sindh Rented Premises Ordinance, 1979 (SRPO, 1979) bearing Rent Case No. 655 of 2014 against the petitioner/ opponent/ tenant before the Ind. Rent Controller, Karachi-Central in respect of the Shop bearing No. 26/6, C-1 Area, Liquatabad, Karachi on the ground of default in payment of monthly rent from August, 2012, wherein respondent No. 1 filed an application under section 16(1) of SRPO, 1979, which was allowed by the Rent Controller, vide order dated 24.08.2015 directing the petitioner/ opponent to deposit the arrears of the monthly rent from August 2012 to September 2013 with the rate of Rs.2200/-, total amount 13 x Rs.2200/- Rs.28600/- and Rs.200 x 23=6600/- arrears from the month of October 2013 to August 2015. The petitioner was also directed to deposit future rent at the rate of Rs.2200/- per month.

Since the petitioner failed to comply with the tentative rent order, the respondent No. 1 filed an application under section

16(2) of SRPO, 1979 for striking off the defence of the petitioner/ opponent, which was allowed by the learned Rent Controller, vide order dated 17.02.2016. Being aggrieved thereof, the petitioner preferred First Rent Appeal No. 14 of 2016, which was heard and dismissed by the learned 7th Additional District Judge, Karachi-Central, vide judgment dated 26.10.2016. It is against that judgment, the instant Constitution Petition has been preferred by the petitioner.

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

The learned counsel for the petitioner submits that in compliance of interim tentative order, passed by the learned Rent Controller, the petitioner deposited an amount of Rs.6600/-, however, amount of Rs.28,600/- could not be deposited by the petitioner and in this respect he made request to learned Rent Controller for grant of time, however, his request was not considered.

Admittedly, the interim tentative order passed by the learned Rent Controller on 24.08.2015 was not complied with in letter and spirit and thus the petitioner committed willful default in depositing the rent. The word "default" used in section 13(6) of SRPO, 1979 has different connotation than word "failed" used in section 16(2) of SRPO, 1979. Word "failed" having wider connotation as compared to word "default". Failure of tenant to comply with tentative rent order would amount to negligence of tenant which is inexcusable. No genuine and honest mistake on the

part of petitioner/ tenant has been shown for condonation of default. Under the circumstances, the defence of the petitioner was rightly struck off for non-compliance of tentative rent order by the learned Rent Controller.

For the foregoing facts and reasons, I have not found any illegality and irregularity in the impugned order and judgment passed by the learned Courts below. Therefore, this petition is dismissed in limine along with listed application. The petitioner is, however, directed to vacate the tenement and handover its peaceful vacant possession to respondent No. 1 within 90 days hereof.

JUDGE