

**IN THE HIGH COURT OF SINDH, KARACHI**  
**Constt. Petition No. 399 of 2022**

Petitioner : Mst. Nusrat Khalid w/o Khalid Mehmood,  
through Mr. Imamuddin Chandio,  
advocate

Respondent No.1 : Fayaz Ahmed s/o Barkat Hussain (*nemo*)

Respondent No.2 : Rent Controller, Faisal Cantonment  
Board, Karachi (*nemo*)

Date of hearing : 27.04.2022  
Date of order : 27.04.2022

**ORDER**

**ZAFAR AHMED RAJPUT, J:-** By invoking constitutional jurisdiction of this Court under Article 199 of the Islamic Republic of Pakistan,1973, the petitioner has impugned the Order, dated 17.03.2022, whereby Rent Controller, Faisal Cantonment Board, Karachi ("**Controller**") while allowing application under section 17(8) of the Cantonment rent Restriction Act, 1963 ("**the Act**") in Rent Case No. 34 of 2021 directed the petitioner/opponent to deposit arrears of rent amounting to Rs. 2,97,598/- from February, 2021 to March, 2022 at the rate of Rs. 21,257/- per month within 30 days of the Order and future rent at the same rate from April, 2022 till the existence of tenancy between the parties on or before 5<sup>th</sup> of each calendar month, with directions that the petitioner is at liberty to deal with amount already deposited by her with the Controller in MRC.

**2.** At the very outset, the learned counsel for the petitioner was put on notice to satisfy the Court as to the maintainability of the petition as an interlocutory order passed in a case has been impugned through the instant petition.

**3.** Learned counsel for the petitioner contends that the rate of rent was Rs. 12,000/- per month since the time of previous landlord/owner, while respondent No.1 claims to have purchased the demised premises.

He further contends that the Controller, without framing and deciding a preliminary legal issue with regard to the existence of relationship of land lord and tenant between the parties, passed the tentative rent order illegally. He also contends that the petitioner is regularly depositing monthly rent in MRC in favour of previous owner and since no appeal has been provided in the Act against the interim rent order, the instant Constitutional petition has been preferred by the petitioner against the impugned Order.

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

**5.** The learned counsel for the petitioners has focused his contentions on the sole point that the impugned order has been passed by the Controller without framing and deciding preliminary legal issue with regard to the existence of relationship of land lord and tenant between the parties. The impugned tentative rent order is interlocutory / interim in nature and the same is even not appealable under the Act. No order has yet been passed by the Controller under section 17 (9) of the Act. The provision of appeal has been provided under section 24 of the Act by the legislature against the final order of the Controller. The petitioner will have opportunity to file an appeal if the final order goes against her and she can raise the afore-stated ground too. Therefore, the instant constitutional petition is not maintainable against an interlocutory/ interim order of the Controller, for the reason that if constitutional petitions are to be entertained against the interlocutory/ interim rent orders, the very purpose of section 24 of the Act would be defeated. Reliance can be placed in this regard on the case of Mst. Seema Begum vs. Muhammad Ishaq and other (PLD 2009 SC 45) and Abdul Farooque and another v. Maqsood Ahmed and another (2015 CLC 663).

**6.** For the forgoing facts and reasons, instant petition does not merit consideration; hence, the same is accordingly dismissed in *limine*, along with the listed/pending application.

JUDGE

*Abrar*