

IN THE HIGH COURT OF SINDH, KARACHI
C.P. No. 470 of 2022

Petitioner : M/s. Elan Facon (SMC-Private) Limited,
through Barrister Waleed Khanzada.

Respondents : (1) Mrs. Nafisa (2) Ms. Qurat Ul Ain and
No.1 to 3 (3) Ms. Sana Hussain (*nemo*)

Respondent No.4 : IInd Rent Controller (South), Karachi (*nemo*)

Date of hearing : 30.05.2022
Date of order : 30.05.2022

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 assailed the order, dated 04.03.2022, whereby learned Senior Civil Judge/Rent Controller-II (South), Karachi while allowing application under section 16(1) of the Sindh Rented Premises Ordinance, 1979 (*"the Ordinance"*) in Rent Case No.579 of 2021, directed the petitioner/opponent to deposit Rs.2,57,49,746/- being 50% of the total arrears of rent i.e. Rs.5,14,99,493.00, w.e.f. 09.07.2018 till 28.05.2021, within 45 days of the order and future/current rent at the 50% of rate of rent which comes to Rs.10,98,075/- per month from the Month of March 2022 on or before every 10th of each English calendar month.

2. On 16.05.2022, 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 rent case under section 16(1) of the Ordinance was impugned through the instant petition.

3. Learned counsel for the petitioner contends that the impugned order being in violation of Articles 8, 10-A, 14, 18, 19-A, 23 and 24 of the Constitution of the Islamic Republic of Pakistan, 1973 is amenable to challenge under Article 199 of the Constitution, as no appeal lies against an interlocutory rent order passed under section 16 (1) of the Ordinance.

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

5. It is an admitted position that the impugned tentative rent order of the learned Rent Controller passed under sec. 16 (1) of the Ordinance is an interlocutory/ interim order in its nature and the same is even not appealable under the Ordinance. No order has yet been passed by the learned Rent Controller under section 16 (2) of the Ordinance. The provision of appeal has been provided under section 21 of the Ordinance by the legislature against the final order of the Rent Controller. The petitioner will have opportunity to file the appeal if the final order goes against him. Therefore, the instant constitutional petition is not maintainable against an interlocutory/interim order of Rent Controller, for the reason that if constitutional petitions are to be entertained against the interlocutory/interim rent orders, the very purpose of section 21 of the Ordinance 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 foregoing facts and reasons, instant petition does not merit consideration; hence, the same is accordingly dismissed in *limine*, along with the pending application.

JUDGE

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