

IN THE HIGH COURT OF SINDHAT KARACHI

BEFORE:
Mr. Justice Aftab Ahmed Gorar

C.P. No.S- 759 of 2021

Muhammad Ishaque
Versus
The learned District & Sessions
Judge, Karachi(East) & others

Date of Hearing: 05.11.2021

Petitioner: Through Mr. Ashiq Muhammad, Advocate

Respondent No.1: Through Syed Arshad Huussain Naqvi, AAG

Respondent No.2 to 5: Through Mr. Muhammad Ilyas Khan Tanoli, advocate

J U D G M E N T.

AFTAB AHMED GORAR, J.- This petition has been filed by the tenant against the concurrent findings of two Courts below in respect of an application under section 15 of the Sindh Rented Premises Ordinance, 1979. The ejectment of the petitioner was sought on the ground of default.

The trial Court allowed the ejectment which was assailed in appeal and the learned appellate Court also dismissed the appeal of the petitioner and maintained the order of the learned trial Court.

Learned Counsel for the petitioner submitted that the impugned order is against the law as the two Courts below failed to consider the fact that both the Courts bellow have passed the impugned orders without applying judicial mind as no evidence is available as far as the default in payment of rent is concerned. He submitted that the courts below have passed the orders on presumption only as no evidence is recorded to bring on record proofs for default, if any, committed by the petitioner. He further added that the observations made by the two Courts below are contrary to the facts therefore, liable to be set aside.

Learned Counsel for the petitioner prayed for remand of the case considering the above circumstances.

Learned Counsel for the respondents submitted that no evidence or proof is required to be produced for default committed by the petitioner as learned trial Court passed a tentative order whereby the petitioner was directed to deposit monthly rent in the Court, however the petitioner did not comply with the Court orders whereupon his eviction order was passed. He submits that since the order passed by the learned trial Court was according to law as such, the appellate Court also maintained the findings of learned trial and dismissed the appeal of the petitioner, which was assailed in this petition. He prays that the petitioner did not approach with clean hands and has deliberately did not comply with the order passed by the learned trial Court, therefore, this petition is liable to be dismissed.

I have heard the learned Counsel, learned Counsel for the respondents No.2 to 5 perused the material available before and gone through the impugned orders of two Courts below.

Perusal of record reveals that there are concurrent findings of the two Courts below whereby the petitioner was declared to have defaulted in filing the rent as the learned trial Court allowed an application under section 16(2) SRPO, 1979 vide order dated 24.12.2020 whereby the defense of the petitioner was struck off due to non-compliance of tentative order passed by learned trial Court. Petitioner was though given directions by the learned trial Court to deposit the monthly rent, however instead of complying with the order of learned trial Court, the petitioner opted to challenge the order of debarring him from filing objections before the learned appellate Court, which appeal too was dismissed and the findings of learned trial Court were maintained. No justification was provided by the learned Counsel for petitioner for violating the directions given by learned trial Court for depositing the

rent. It is well settled principle of law that once a default is committed by a party, it would make liable itself to be evicted from the premises.

In view of above discussion, the petition stands dismissed and the impugned orders passed by the trial Court as well as appellate Court are maintained.

Above are the reasons for the short order dated 05.11.2021 whereby this petition was dismissed.

Judge