

ORDER SHEET
**HIGH COURT OF SINDH CIRCUIT COURT,
HYDERABAD.**

F.R.A No.02 of 2021

[Allauddin vs Pakistan Kaimkhani Education]

F.R.A No.03 of 2021

[Allauddin vs Pakistan Kaimkhani Education]

F.R.A No.04 of 2021

[Qamaruddin vs Pakistan Kaimkhani Education]

F.R.A No.05 of 2021

[Qamaruddin vs Pakistan Kaimkhani Education]

F.R.A No.06 of 2021

[Qamaruddin vs Pakistan Kaimkhani Education]

F.R.A No.07 of 2021

[Shahabuddin vs Pakistan Kaimkhani Education]

F.R.A No.08 of 2021

[Idrees Ahmed vs Pakistan Kaimkhani Education]

F.R.A No.09 of 2021

[Attaullah & another vs Pakistan Kaimkhani Education]

F.R.A No.10 of 2021

[Shabbir & Sons vs Pakistan Kaimkhani Education]

F.R.A No.11 of 2021

[Muhammad Jahangir & another vs Pakistan Kaimkhani Education]

F.R.A No.12 of 2021

[Muhammad Khubaib Siddiqui vs Pakistan Kaimkhani Education]

F.R.A No.13 of 2021

[Riazuddin vs Pakistan Kaimkhani Education]

F.R.A No.14 of 2021

[Muhammad Shabbir & Ikram and Others vs Pakistan Kaimkhani Education]

F.R.A No.15 of 2021

[Muhammad Yaqoob vs Pakistan Kaimkhani Education]

F.R.A No.16 of 2021

[Mirza Nadeem Baig vs Pakistan Kaimkhani Education]

F.R.A No.17 of 2021

[Rizwan Khan vs Pakistan Kaimkhani Education]

F.R.A No.18 of 2021

[Z.A Khan vs Pakistan Kaimkhani Education]

F.R.A No.19 of 2021

[Muhammad Usman Ghani vs Pakistan Kaimkhani Education]

F.R.A No.20 of 2021

[Abdul Aziz vs Pakistan Kaimkhani Education]

F.R.A No.21 of 2021

[Syed Siddique Ali & Ors vs Pakistan Kaimkhani Education]

F.R.A No.22 of 2021

[Imamuddin vs Pakistan Kaimkhani Education]

DATE**ORDER WITH SIGNATURE OF JUDGE**

31.01.2022

Mr. Ghulam Sarwar Qureshi, advocate for appellants.
Mr. Muhammad Arshad S. Pathan advocate for the respondents.

Case of the appellants in captioned FRAs is that appellants (tenants) failed to deposit rent arrears w.e.f. January 2017. Learned counsel for the appellants contends that appellants were depositing rent with learned 3rd Senior Civil Judge/ Rent Controller Hyderabad hence, appellants have not committed any default. Counsel for landlord/ respondent is not disputing the amount of arrears deposited with the Senior Civil Judge, however, he contends that jurisdiction lies to the cantonment law, therefore, learned Rent Controller under the Sindh Rented Premises Ordinance, 1979 was not competent to receive that amount.

It is also agitated that appellants intimated that amount deposited is available with learned 3rd Senior Civil Judge/ Rent Controller however, no efforts were made by learned trial Court or by the respondent to withdraw that amount from the Senior Civil Judge directly or transfer the same with the Tribunal as per cantonment law. Learned counsel for respondent contends that appellants are defaulter as they failed to deposit the rent on monthly basis whereas, they deposited rent of four months at once. Perusal of impugned order reflects that aspect was not considered while striking off defence of the appellants (tenants). At this juncture, learned counsel for the appellants contends that though appellants were not provided opportunity of hearing while passing that order. With regard to rent amount deposited for various months on same date and plea of learned counsel that appellants were required to deposit the rent per month is yet to be seen on merits, whereas question of arrears in view of Section 17 (9) of The Cantonments Rent

Restriction Act, 1963 speaks tentative rent. Here there is no defiance of direction by the Tribunal. However, amount deposited with Rent Controller could easily be withdrawn by respondent (landlord) or to be transferred to the Rent Controller Cantonment area. Under these circumstances, impugned orders dated 03.03.2021 are set-aside and the cases are remanded back to learned Rent Controller. For the amount deposited with 3rd Senior Civil Judge Hyderabad, respondents would be at liberty to receive the same within one month and in case of failure 3rd Senior Civil judge shall transfer that amount with Rent Controller Cantonment area. With regard to any fresh default after decision of impugned order respondent would be at liberty to file application in accordance with law.

The captioned FRAs are disposed of in the terms of above. This order shall be communicated to 3rd Senior Civil Judge Hyderabad for compliance.

J U D G E

Irfan Ali