

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
CP.No.S-2306 of 2018

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Date \_\_\_\_\_ Order with signature of Judge \_\_\_\_\_

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1. For hearing of main case.
2. For hearing of CMA No. 9313 of 2018 (Stay).

**21<sup>st</sup> August 2020**

Mr. Imdad Khan, advocate for Petitioner.

Mr. Manzar Bashir, advocate for Respondent No.1.

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At the outset, learned counsel for the petitioner contends that he is ready to pay the fair rent as adjudicated by the trial Court, however, the direction with regard to payment of fair rent from the date of institution is unjustified and he further contends that enhancement by the appellate court from Rs.20000 to Rs.30000 is unjustified as the appellate court has failed to assign any reason or even referred the evidence. He has relied upon case law reported as 2001 SCMR 671.

2. In contra learned counsel for the respondent has also relied the upon the same judgment i.e.2001 SCMR 671 and further contends that judgment of appellate court is in accordance with law and there is no harm if fair rent is paid from the date of institution and admittedly such petition was filed in 2016 and same was culminated in 2017.

3. Heard and perused the record.

4. At the outset, it would be conducive to refer paragraph No.11 of the order passed by III-Additional District Judge, Karachi South is that:

*“11. Now coming to the assertion of learned counsel for the landlord, it is observed that admittedly rent has not been enhanced since last 40 years. Whereas to the satisfaction of the law, the landlord has not only failed to substantiate his version by producing any rent receipt from the adjoining locality nor produced the payment receipt of any utilities or taxes payable on the subject property, nor he has substantiated the ground that he had ever maintained the subject property. However the locality undeniably falls amongst the most reputable business places in the cosmopolitan. The notifications being issued by the Govt. of Pakistan Revenue Division in respect of value of immovable property, always places the subject property either in I or A-I category. No doubt that the enhancement in the value of immovable property in the city is upto several hundred times in last forty years. Placing my reliance on the cited case law as well as the discussion*

*made above, I find it appropriate to enhance the rent fixed @ Rs.20,000/- per month to Rs.30,000/- per month to be paid from the date of institution of rent application. I exercised such discretion by placing my reliance on 2015 MLD 674 upon observation of the fact that the landlord never approached the Rent Controller for the fixation of rent during the course of last 40 years. The issue is answered as accordingly.*

Perusal of the above in juxtaposition of judgment recorded by the trial Court, it appears that appellate court has failed to justify the reasons for enhancing the fair rent from Rs.20,000 to Rs.30,000. Accordingly, impugned judgment passed by the appellate court is set aside, however, the judgment of the trial Court is maintained.

Petition stands disposed of.

J U D G E

SAJID