

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
**CP.No.S-2040 of 2015.**

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Date	Order with signature of Judge
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1. For hearing of CMA No. 8387 of 2015 (Stay).
2. For hearing of main case.

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**25<sup>th</sup> September 2020**

Mr. Iftikhar Jawed Kazi, advocate for petitioner.  
Qazi Hifz ur Rehman, advocate for respondents No. 1 and 2.

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Heard learned counsel for the respective parties.

Learned counsel for the respondents has emphasized over findings of the appellate Court available at page 47 of the file, which is that:-

“Record further shows on 15.2.2014 second application U/S 16(2) of Sindh Rented Premises Ordinance, 1979 moved by the respondent to struck off the defence of the appellant/opponent on the ground that on application U/S 16(1) of Sindh Rented Premises Ordinance, 1979, the appellant/opponent was ordered to deposit the rent with the Nazir of the Court, but appellant/opponent has failed to comply with the Court’s order and defaulted to deposit the rent as ordered and liable herself that her defence be struck off.

Notice of this application was given to appellant to file counter-affidavit on the said application after hearing of both parties advocate the Learned Rent Controller allowed the application U/S 16(2) /Sindh Rented Premises ordinance, 1979 struck of the defence of appellant/opponent with direction to vacate the demise premises within one month, the operative part of the said order dated 23.7.2014 is reproduced as under:-

“In the light of said circumstances and in the interest of justice after relying on above said case law, it appeared that the opponent had committed willful default in payment of rent for the month of January and February 2013, therefore, the defence of the opponent is struck off and the present application is hereby allowed as prayed, with direction to the opponent to handover the vacant and peaceful possession of the demised premises i.e. office/room No.111, First Floor, central Building, Civil Lines, Karachi to the applicant within 60 days from the date of passing this order. Order passed accordingly, with no order as to cost”

Before parting further I would like to reproduced the provision contained in section 16(1) Sindh Rented Premises Ordinance, 1979 which reads as under:-

“(2) Where the tenant has failed to deposit the arrears of rent or to pay monthly rent under sub-section (1), his defence shall be struck off and the landlord shall be put into possession of the premises within such period as may be specified by the Controller in the order made in this behalf.”

According to the provision of section 16(2) Sindh Rented Premises Ordinance, 1979 in case of any violation of the tentative rent order passed by the trial Court U/S 16(1) Sindh Rented Premises Ordinance, 1979 the tenant will come within the ambit of consequence as provided U/S 16(2) Sindh Rented Premises Ordinance, 1979.”

Learned counsel has relied upon case law reported as PLD 2007 SC 504 and contends that order under Section 16(1) of Sindh Rented Premises Ordinance, 1979 was not complied with and order under Section 16(2) of the Ordinance is in accordance with law, whereas, learned counsel for the petitioner contends that such amount was paid by the petitioner to her counsel but same was not deposited within time thus petitioner has filed application against her counsel with regard to misconduct with the Bar Council. However, he contends that he will not press instant petition if a reasonable time is allowed as the demised premises is office and shifting will cause serious hardships and certainly take some time. Under these circumstances, instant petition is dismissed as not pressed alongwith pending applicaiton, however, two years' time is granted to the petitioner to vacate the demised premises with directions that petitioner shall deposit all arrears including future rent in accordance with law. In case of failure of the petitioner in payment of arrears, future rent and / or vacation of the demised premises, the trial Court would be competent to get vacated the demised premises with police aid without notice.

JUDGE