

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**C.P. No.S-298 of 2021**

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Date Order with Signature(s) of Judge(s)  
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**Hearing of case (priority)**

- 1.For hearing of CMA No.1962/2021.
- 2.For hearing of main case.

**30.03.2022**

Syed Khizar Askar Zaidi, advocate for petitioner.  
Mr. Zafar Iqbal Dutt, advocate for respondent No.1.  
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**ZAFAR AHMED RAJPUT, J:-** Respondent No.1/applicant/owner filed Rent Case No. 419/2015, under section 8 of the Sindh Rented Premises Ordinance, 1979 (**the “Ordinance”**) against the petitioner/opponent/tenant for the determination of fair rent of the Flat No. E-4, situated in Block-E, Azeem Market, constructed over plot No. 2-II-B, Nazimabad No.2, Karachi (**“rented premises”**). The petitioner contested the rent case by filing her written statement. After recording pro and contra evidence, hearing the learned counsel for the parties and evaluating the evidence on record, the learned VIII-Rent Controller, Karachi-Central allowed the rent application vide order, dated 18.02.2020, by determining and fixing fair rent of the rented premises from Rs. 4500/- to Rs. 10,000/- w.e.f. the month of the order viz. August, 2020. Being aggrieved, the respondent No. 1 preferred First Rent Appeal No.74/2020, which was heard and allowed by the learned Additional District Judge-VI/Model Civil Appellate Court-Ext. Karachi-Central vide order dated, 01.03.2021, directing to the petitioner to pay the fair rent w.e.f. the date of institution of rent case. It is against that order of the Appellate Court, the petitioner has preferred instant Const. Petition.

**2.** Learned counsel for the petitioner while placing his reliance on the case of *Khyber Insurance Company Ltd. vs. Pakistan National Shipping Corporation (PLD 1994 SC 725)* and *Messrs Olympia Shipping*

*and Weaving Mills Ltd. and another vs. State Life Insurance Corporation of Pakistan (2001 SCMR 1103)* contends that section 8 of the Ordinance does not lay down any fetter on the power of the Rent Controller or the Appellate Authority to fix the fair rent from a particular date, as such, very wide discretion has been conferred by law on the Rent Controller and Appellate Authority to fix the fair rent from the date of application or from the date of order. He further contends that the discretion vested in the Rent Controller as well as the Appellate Authority is, however, not arbitrary or whimsical, and in the instant case, learned Appellate Court has exercised its discretion in fixing the period injudiciously by modifying the order of the Rent Controller by impugned order, which requires setting aside by this Court under its Constitutional Jurisdiction.

**3.** On the other hand, learned counsel for the respondent No.1 maintains that the order passed by the Appellate Court being in accordance with law and facts is liable to be maintained. He also maintains that the Hon'ble Apex Court in its various pronouncements has observed that the fixation of rent is required to be ordered with effect from the institution of the rent case and not from the date of the decision of the rent case. In support of his contentions, learned counsel has placed his reliance in the case of *Messrs Victor Restaurant, through Partners v. State Life Insurance Corporation of Pakistan and others (2010 SCMR 745)* and *Yasmin Islam and others v. State Life Insurance Corporation and other (2009 PSC 284)*.

**4.** Heard the learned counsel for the parties and perused the material available on record with their assistance.

**5.** It is an admitted position that the rented premises is comprised of two rooms along with balconies, one kitchen and bathroom, which is located in a commercial and thickly populated area. The learned Rent

Controller having evaluated evidence on record and relevant factors i.e. rent of the similar premises, inflation and increase in value of commodities, came to the conclusion that the rate of rent of the rented premises should be fixed at Rs. 10,000/- per month; however, failed to assign any reason for not allowing the rent case/application from date of its institution. Hence, the learned Appellate Court has rightly modified the order of the learned Rent Controller vide impugned order.

**6.** For the foregoing facts and reasons, I am of the view that the impugned order passed by the learned Appellate Court neither suffers from any legal infirmity nor the same is contrary to any principle of law, which regulates the determination of fair rent; hence, the impugned order does not require any interference of this Court under its writ jurisdiction. Resultantly, petition is dismissed along with listed application, with no order as to costs.

JUDGE

*Abrar*