

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P.No.S-664 of 2020

Sale & Service Pakistan Petitioner

Vs.

The learned 2nd Senior Civil Judge, Rent Controller,
Karachi South East & others Respondents

Syed Mukhtar Hussain, advocate for petitioner.
Mr. Muhammad Rehan, advocate for respondent.
Syed Miran Muhammad Shah, AAG.

02.09.2024.

ORDER

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MUHAMMAD IQBAL KALHORO J: Respondent filed a rent case earlier bearing No.635/2009 for fixation of fair rent of the premises viz. Ground Floor and 1st Floor of the Building known as Khattak Mensions located at Plot No.41,42 and 43, G.A. Allana Road, Machi Miani, Karachi. The case was heard and rate of Rs.12/- per Sq. Ft was fixed amounting to Rs.52,400/- per month vide order dated 31.01.2013. This order was vainly challenged in FRA and ultimately landed before this court in a constitution petition. In petition, some stay order was granted in favour of the petitioner. However, subsequently, respondent filed an application u/s 15(2) of Sindh Rented Premises Ordinance, 1979 (SRPO) seeking eviction of the petitioner from the said premises.

2. In reply to a notice the petitioner filed written reply; and a copy of the order of stay granted by this court in earlier petition, when in the subsequent rent case, an application u/s 16(1) SRPO for deposit of arrears of rent was filed by respondent. In view of stay granted by this court, the proceedings in subsequent rent case were stayed by the Rent Controller. However, the petition later on was dismissed on 11.03.2019 for non-prosecution. The order was communicated to the Rent Controller, but since the petitioner, did not, after dismissal of its petition, appear before the Rent Controller, learned Rent Controller issued a court motion notice, yet the petitioner did not appear, hence the respondent was examined but without any cross-examination from the petitioner due to his absence. Then an order on application u/s 16(1) SRPO was passed on 19.02.2019 and the petitioner was directed to make good of the arrears within 30 days.

3. The petitioner challenged the same in FRA No.99/2020 but the same has been dismissed vide order dated 03.09.2020. In the appeal, the petitioner took a

ground that since the proceedings of the rent case were adjourned sine-die and thereafter without issuing any notice to petitioner, the Rent Controller resumed proceedings and passed the order, the same is not sustainable in law. However, this aspect of the case, the appellate court adequately dealt with by observing that dismissal of the petition filed by the petitioner was enough notice to it to appear before the trial court to contest the matter and further the trial court as an abundant caution issued court notice to it but it failed to respond. The same ground has been taken up here in this constitution petition by the petitioner without however, pointing to any extra material which may justify a different view.

4. The appellate court has rightly concluded that after dismissal of the petition, the petitioner was required to appear on his own before the Rent Controller, particularly when the order of this court was communicated to the Rent Controller for such purpose. Communication of the order by this court to the trial court was for the purpose that it should resume the proceedings stayed by it. Since it was a petition filed by the petitioner, its dismissal automatically gave it an information of resumption of proceedings before the Rent Controller. In addition, Rent Controller also issued a court motion notice to the petitioner but it chose to remain absent.

5. In the circumstances, no case for indulgence in constitutional jurisdiction is made out. Learned counsel for respondent and learned AAG have supported the impugned order. Accordingly this petition is dismissed alongwith pending application (s). At this juncture, learned counsel for respondent submits that writ of possession has been issued by the Rent Controller but if petitioner files an application seeking time of 30 days for vacation of the premises, he will give no objection to it.

Be that as it may, the petition stands dismissed and disposed of in the above terms alongwith pending application.

Judge

A.K.