

IN THE HIGH COURT OF SINDH KARACHI

Const. Petition No. S-192 of 2022

Date	Order with signature(s) of Judge(s)
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1. For hearing of Misc. No.1265/22
2. For hearing of main case.

10.12.2025.

Mr. Shafqat Zaman, Advocate for the Petitioner.

Raja Muhammad Safeer, Advocate for the Respondent.

Mr. Irshad Ahmed Shaikh, Assistant Advocate General Sindh.

ORDER

Nisar Ahmed Bhanbhro, J. This petition is directed against the order dated 10.01.2022 passed by the XIIth Additional District Judge Karachi-South in F.R.A. No.220 of 2021 (re: Syed Tariq Hussain - v – Jamia Tul-Uloom-il-Islamiyyah & Ors.) and order dated 31.08.2021 passed by the Rent Controller-VI Karachi-South in Rent Case No.1060/2018 (re: Jamia Tul-Uloom-il-Islamiyyah & Ors - v - Syed Tariq Hussain). The order passed by the trial Court on the application under Section 16(2) of the SRPO, 1979 for striking off the petitioner's defence was maintained.

2. Counsel for the petitioner argued that vide order dated 19.02.2021, the petitioner was directed to deposit arrears of rent from March 2016 to February 2021 within 30 days, as well as the future monthly rent at the same rate from March 2021 onwards before the Court. The petitioner failed to comply with the order of the trial Court; therefore, his defence was struck off by exercising the powers conferred under Section 16(2) of the SRPO, 1979, and the appeal was declined. Learned counsel for the petitioner contends that the trial Court was empowered to impose arrears of rent only for a period of three years, but in the instant case, the trial Court directed deposit of arrears from March 2016, which, if reckoned from the date of the order, constitutes a period of more than five years. He placed reliance on the case of *Zahid Khan v Mst. Razia Khatoon* (2020 YLR 192) and *Mrs. Durre Shamim Rafi v Muhammad Zubair Khan* (2013 CLC 1021)

3. Learned counsel for the respondent, controverting the submissions, argued that the three-year period is to be reckoned from the date of institution of the suit and not from the date of the order. Since the rent case was filed in October 2018 and the petitioner was directed to deposit arrears of rent from March 2016, the order passed by the trial Court is within the parameters of law and requires no interference by this Court. Learned Assistant Advocate General Sindh has supported the impugned judgment/order.

4. Heard arguments, perused the material available on record.

5. From a scanning of the record, it revealed that the rent case was filed in October 2018 with specific assertions that the petitioner had not deposited rent

payments since March 2016. This default has not been denied by the petitioner. He has challenged the impugned orders solely on the ground that he was directed to deposit rent for a period exceeding five years, whereas, according to him, the recoverable period should be limited to three years. In the case of *Zahid Khan v Mst. Razia Khatoon* (2020 YLR 192) passed by the learned single bench of this Court is on the same point in para 4 & 8 of the aforesaid order are observed that:

“4. In the instant case, the eviction application was filed by respondent No.1 in February 2019, but the petitioner has been directed by the learned Rent Controller to deposit arrears of monthly rent for the period October 2013 till June 2019 within thirty days, and also to deposit future monthly rent on or before the tenth day of each calendar month. In view of the well-settled legal position, learned counsel for the petitioner is correct in saying that the Rent Controller had no power to direct the petitioner to deposit arrears of monthly rent for a period exceeding three years. As the impugned order is without jurisdiction to this extent, the same is liable to be declared as such and this petition is maintainable only to such extent.

8. In view of the above discussion, the impugned order is modified only to the extent that the petitioner shall deposit arrears of monthly rent with effect from February 2016 within thirty (30) days from the date hereof at the rate mentioned in the impugned order. It is clarified that rest of the directions contained in the impugned order shall remain unchanged and in case of non-compliance thereof and/or this order, the learned Rent Controller shall be at liberty to proceed in accordance with law. The petition and listed application stand disposed of in the above terms with no order as to costs.”

6. From a perusal of the excerpt of the above judgment, it is clear that the period of three years is to be reckoned from the date of institution of the suit, and not from the date of passing of the order. Since the subject suit was instituted in October 2018, and the petitioner was directed to deposit arrears of rent from March 2016, the claim falls well within the three-year period. As such, no illegality has been committed by the trial Court or the appellate Court in directing the petitioner to deposit the arrears of rent.

7. Section 16 of the SRPO, 1979 empowers the trial Court to direct the tenant to deposit the rent within the stipulated time; and upon failure to comply with order, this Court was left with no option but to strike off the defence and decide the rent case with directions to hand over vacant possession of the demised premises to the landlord. Since the petitioner was directed to deposit the arrears of rent as well as the monthly rent, and he failed to comply with the order, the trial Court was well within the bounds of law to pass the order dated 31.08.2021, striking off the petitioner's defence and directing him to hand over possession to the tenants. Learned counsel for the petitioner has failed to point out any illegality or infirmity in the impugned orders of the courts below. Hence, the instant petition, being devoid of merit, is dismissed with no order as to costs, along with all pending application(s), if any.

JUDGE

Approved for reporting
Dated: 10.12.2025