

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C.P No.S-470 of 2016

Date	Order with signature of Judge
------	-------------------------------

Hearing/Priority case

1. For hearing of CMA No.1309/2013 (Stay).
2. For hearing of main case.

27.03.2017

Mr. Usman Shaikh, Advocate for the Petitioner.

-O-O-O-

This constitution petition is against current findings of Rent Controller in Rent Case No.304 of 2009 and Appellate Court in FRA No.50 of 2015.

Brief facts of the case are that learned Rent Controller in Rent Case No.304/2009 disposed of the application under Section 16(1) of S.R.P.O 1979 in the following terms.

In light of the above discussion, there remains no other alternative except that the opponent is directed to deposit three years' rent of the shops as detailed above at the rate of Rs.425/- per month per shop in respect of shop Nos.9, 10 and 13 in Block-2 prior to filing of the rent application, within 15 days from the date of this order, without fail. The opponent is also directed to deposit three years' rent of shop No.8 in Block-3 and shop No.14 in Block-12 at the rate of Rs.550/- per month per shop, within 15 days from the date of this order, without fail. Besides, the opponent is also directed to clear all the KESC bills against consumer Nos.AL-118430 and AL-118474 within 15 days hereof.

Admittedly the petitioner did not comply with this order and preferred First Rent Appeal, it was also dismissed in the following terms:-

In view of the above mentioned facts and circumstances, I find no irregularity and illegality in the impugned order dated 30.03.2015, accordingly the present appeal is dismissed with no order as to cost, with directions to the appellant to hand over the vacant and peaceful possession of the demised

shops to the respondent / landlord within a period of (60) days from the date of this order.

The last order by the appellate Court was passed in February, 2016 and even after that order the petitioner has not comply with the order passed by the Rent Controller on the application under Section 16(1) of S.R.P.O, 1979 and therefore the order of the ejectment of the petitioner from the premises in question on failure to comply with the order of the Rent Controller cannot be interfered with. In given facts of the case it cannot be said that the orders passed by the two Courts below are suffering from non-reading and mis-reading of the evidence. It is clear cut case of failure to follow the mandate of law in which question of evidence does not arise nor there is chance of misreading of evidence. The eviction of petitioner is not on the ground of default in payment of rent to the respondent. It is default in compliance of Court order and the Court record by itself is the determining factor. Consequence of default in non-compliance of tentative rent order is only ONE, that is, eviction of defaulter.

In view of the above legal and factual position, the petition is dismissed. The petitioner is directed to vacate the premises in question within 30 days. However, in case of failure of the petitioner to vacate the premises on or before **27.4.2017**, the executing Court shall issue writ of possession without notice to the petitioner with police aid.

J U D G E

SM

