

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C.P Nos.S-1657, 1658, 1659 and 1660 of 2018

Date	Order with signature of Judge
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17.10.2018

Mr. Anwar Hussain, advocate for petitioners.
Mr. Mehmood Habibullah, advocate for respondents.

These rent petitions are arising out of identical question of default in compliance of rent order under Section 16(1) of the Sindh Rented Premises Ordinance, 1979 (SSPO, 1979). However, after going through the record, it appears that there has been some confusion in appreciating the dates of payment of rent by the petitioner in terms of tentative rent order. The tentative rent order was:-

*Moreover, the question of rent amount is concerned it appears while perusing the R&Ps that the present attorney Muhammad Azeem having himself the owner of the demised premises filed the rent application before the VIIth Rent Controller Karachi (South), subsequently same was withdrawn, who **disclosed the rent amount i.e Rs.1040/- of demised premises. Same has been deposited by the opponent in the MRC No.198/2014 and MRC No.208/2016 with the same rate. In the light of above discussed material, opponent is directed to pay the future rent at the rate of Rs.1040/- per month in this case regularly, on or before 10th of each English calendar month.***

After going through the record it has been transpired that the rent has been deposited within time rather in advance. However, the Court clerk while depositing the rent has mentioned wrong months towards payment of rent on the receipts and that mistake has been cleared after going through the record since the future rent was to be deposited from July, 2016 whereas the tentative rent order which

was passed in **March, 2017**. The tenant has already deposited rent upto June, 2017 in the MRC. The Rent Controller has not specified “future rent” whether it was from April, 2017 as the order was passed in March, 2017 or it was with effect from the month for which rent has already been deposited in MRC. However, perusal of impugned order suggests that the future rent would mean rent which had not been deposited in MRC by the time when the tentative rent order was passed. The rent which has already been deposited in MRCs was treated as rent paid. This factual controversy was decided by the trial Court without properly appreciating the record. The petition lies only on the ground of misreading of evidence and the misreading of evidence has been surfaced with the help of the learned counsel for the Petitioners on going through the payment receipts of rent in Court. Therefore, all the four petitions are allowed and the cases are remanded to the trial Court for deciding on merits both on the question of original default as well as personal bonafide need. Since these are rent matters and this Court has also consumed time in these constitution petitions as well as in FRAs, therefore, by consent of both the parties it is ordered that the trial Court should decide all the matters within 90 days from **03.11.2018**. Parties are directed to appear before the Rent Controller. Petitioners are bound down that his client should appear before Rent Controller without waiting for Court motion notice from the Rent Controller. The affidavits in evidence of the petitioners are already on record, the witnesses should be present before the Rent Controller for the purpose of cross-examination on **03.11.2018**. If the witnesses will not appear on the said date, their evidence shall be closed, and if appeared no adjournment will be granted by the Rent Controller to the Petitioner and his counsel should cross-examine the witness otherwise cross

should be treated as NIL. In any case all the rent cases remanded by the order should be decided on merit within 90 days.

All the above four petitions are disposed of in the above terms alongwith pending applications.

JUDGE

*Ayaz Gul/PA**