

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. S – 862 of 2021

Date	Order with signature of Judge
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For orders on CMA No.5627/2021 (Urgency) :
For orders on CMA No.5628/2021 (Exemption) :
For orders on CMA No.5629/2021 (Stay) :
For hearing of main case :

09.11.2021 :

Mr. Fayyaz Ahmed, advocate for the petitioner.

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NADEEM AKHTAR, J. – Rent Case No.17/2021 was filed by respondents 1 to 3 / landlords against the petitioner / tenant for his eviction wherein the impugned order was passed by the learned Rent Controller on 21.10.2021 under Section 17(8) of The Cantonment Rent Restriction Act, 1963. Through the impugned order the petitioner was directed to deposit within one month an amount Rs.1,450,000.00, being the arrears of rent for the period June 2021 to October 2021 at the rate of Rs.290,000.00 per month, and also to deposit the future monthly rent at the same rate on or before the fifth day of each calendar month.

The impugned order is an interim order. It is well-settled that an interim order passed in rent proceedings under the special rent law cannot be called in question under the constitutional jurisdiction of this Court unless such order is without jurisdiction or is in excess of jurisdiction. In this context, I may refer to the following view expressed by Honourable Mr. Justice Kamal Mansur Alam (as his lordship then was) in Kh. Noorul Qadir Darabu V/S Ejaz Ahmed and others, PLD 1997 Karachi 501 :

“6. However, as is obvious the Constitutional jurisdiction of the High Court was invoked after the final order had been passed by the Rent Controller and after exhausting the remedy of appeal provided under the statute. In the present case the petitioner has rushed to this Court to challenge an interim rent order of the Rent Controller when Section 24 of the Cantonments Rent Restriction Act, specifically bars appeal from interim orders. This restriction is apparently with a view to avoid piecemeal decision in cases and to ensure expeditious disposal under the Act. Constitutional jurisdiction if allowed to be invoked in cases where appeal is specifically barred would negate the very purpose of the statute and render the provision meaningless. In a number of cases the superior Courts have disapproved piecemeal decision in a matter

and invocation of Constitutional jurisdiction to challenge interim orders in rent cases.”

In the above circumstances, the petition, being misconceived and not maintainable, is dismissed in limine along with listed applications with no order as to costs.

J U D G E