

**IN THE HIGH COURT OF SINDH, CIRCUIT  
COURT, HYDERABAD.**

**CP. No. S- 511 of 2021**

Shanullah	.....	Petitioner
Vs.		
Muhammad Ashraf alias Lala and others	.....	Respondents

Mr. Sheeraz Ahmed Bhatti advocate alongwith petitioner  
Mr. Rafique Ahmed Dahri, Assistant A.G Sindh

Date of order & decision : 20.12.2021

**ORDER**

**ADNAN-UL-KARIM MEMON J,** - Through this petition, the petitioner has called in question the order dated 11.09.2021, whereby, learned Rent Controller dismissed his application filed under Section 16(1) Sindh Rented Premises Ordinance.

2. Facts of the case, in a nutshell, are that petitioner being one of the legal heirs of deceased Abdul Rehman Abbasi filed Rent Application bearing No.172 of 2021 against respondent No.1 in respect of Shop Nos.1 to 3 situated in Plot No. F-1165, Abbasi Chambers with the assertion that said shops were rented out to respondent No.1 by his deceased father Abdul Rehman Abbasi and after the death of his father the said tenancy agreement was continued by their mother, who also passed away and thereafter, respondent No.1 is neither executing fresh tenancy agreement with the legal heirs nor paying rent; along with rent application he has filed an application under Section 16(1) SRPO, seeking directions therein to opponent/respondent to pay the arrear of rent; however, during pendency of the said application, one Mst. Farzana being the daughter of deceased Abdul Rehman filed an application under Order 1 Rule 10 CPC in the main Rent Application, which was allowed and she was joined as party, she also filed a statement, stating therein that after the death of their mother, she is receiving the rent from opponent regularly, hence application filed by applicant / petitioner under Section 16(1) was dismissed by the learned Rent Controller vide impugned order.

3. Despite service, respondent No.1 is called absent. However, I have heard learned counsel for the petitioner. He argued that though Mst. Farzana being legal heir of deceased Abdul Rehman is the co-sharer in the subject property; however, she is receiving the entire rent; that petitioner is also one of the legal heirs is entitled to receive his share in rent; that learned Rent Controller has the extraordinary discretionary power to resolve the controversy amongst the co-sharers concerning rent. He lastly prayed for directions to respondent No.1/opponent for payment of his share in rent.

4. I have heard learned counsel and perused the material available on record.

5. It is an admitted position that the opponent/respondent was inducted in the rented premises by the deceased father of petitioner as a tenant. However, the petitioner is not the only legal heir of deceased Abdul Rehman Abbasi to claim the entire rent and admittedly one Mst. Farzana, sister of the petitioner, who was also impleaded as party in rent proceedings, filed statement in the main rent application, stating therein that she is receiving rent from the opponent/respondent after the death of their father & mother. As such there arises no question of arrears against the opponent/respondent. However, since the main rent application is pending adjudication before the learned Rent Controller, I deem it appropriate to modify the impugned order in the terms that future rent in respect of rented premises be deposited with the Rent Controller for payment to all the legal heirs according to their share at the final disposal of rent proceedings.

6. In view of above, instant petition stands disposed of, thereby impugned order dated 11.09.2021 is modified to the extent that rent in respect of rented premises w.e.f 01.01.2022 be deposited with the learned Rent Controller for payment to all the legal heirs according to their share at the final disposal of rent proceedings. So far as arrears, already paid to Mst. Farzana, are concerned, the legal heirs including the petitioner, are at liberty to file proceedings against her before the competent forum to that extent under the law if they so desire.

Petition stands disposed of accordingly.

JUDGE