

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

C.P. No.S-269 of 2021

Farrukh Iqbal Mirza
Versus
The Ld. DJ East Karachi & others

Date	Order with signature of Judge
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1. For orders on CMA 1781/21
2. For orders on CMA 1782/21
3. For hearing of main case
4. For orders on CMA 1783/21

Dated: 29.03.2021

Mr. Sohail Hameed for petitioner.

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This petition is arising out of an order of the executing Court whereby eviction orders were ordered to be executed.

Brief facts of the case are that Rent Case No.71 of 2020 was filed along with application under section 16(1) of Sindh Rented Premises Ordinance, 1979 on which application an order was passed in terms whereof the petitioner was directed to deposit arrears of rent. He however failed in depositing the arrears of rent hence eviction order in terms of Section 16(2) of Sindh Rented Premises Ordinance, 1979 was passed by the trial Court. No record available to show if the order was challenged however impugned order shows that FRA No.150 of 2020 filed and was dismissed on 08.02.2021. Execution application was filed and was allowed. The executing Court's order of allowing execution was maintained by the appellate Court in FRA No.38 of 2021 (impugned order).

It is the case of the petitioner that executing Court has not served notice and hence petitioner was not permitted to file objections in

respect of execution proceedings and hence, per learned counsel, his rights were violated in terms of Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973. Learned counsel submits that petitioner has every right to be heard by submitting objections to the execution.

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

Though in terms of Article 199 of the Constitution of Islamic Republic of Pakistan petitioner can claim equity however he cannot claim equity unless he performs equitable acts. In the instant case petitioner has not only failed in complying orders of the trial Court but he is not even in a position at this point of time as well. Learned counsel for petitioner has not been able to justify as to why rent is being withheld despite order of Rent Controller, yet he claims equity. Since he has not paid arrears of rent throughout cannot take benefit of Article 10A of the Constitution. Article 10A is not extended to those who disregards and violates the orders of Court and yet claim equity. In the instant case the petitioner could not claim equity for themselves hence no indulgence is required.

In view of above, no case is made out for interference in the orders passed by the two Courts below and hence petition is dismissed along with listed applications.

Judge