

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

C.P. No.S-310 and 311 of 2021

Habib Bank Limited
Versus
Learned IX-Rent Controller Karachi Central & others

Date	Order with signature of Judge
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1. For orders on CMA 2060/21
2. For orders on office objection Nos.14, 27 and 31 as at 'A'
3. For orders on CMA 2061/21
4. For hearing of main case
5. For orders on CMA 2062/21

Dated: 07.04.2021

Barrister Mujtaba Sohail Raja for petitioner.

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While proceedings under Sindh Rented Premises Ordinance, 1979 were initiated by respondent No.2, petitioner seems to have filed an application under order VII rule 11 CPC in respect of both the applications i.e. one for fair rent under section 8 and the other for eviction under section 15 of ibid Ordinance. The Rent Controller perhaps was of the view that the proceedings under special statute cannot be governed by Civil Procedure Code and there is an independent section i.e. Section 20 of Sindh Rented Premises Ordinance, 1979 that deals with the applicability of Civil Procedure Code with regard to summoning the witness, compelling production or discovery of documents, inspection of site and issuing commission for examination of witnesses or documents.

Though in my view there could be other compelling situation where principles of CPC could be invoked but by dismissing application under order VII rule 11 CPC, no grave injustice has been done. Such being the limitation, Rent Controller was of the view that the two applications in two independent rent cases merits no consideration.

Though the conclusion reached by the Rent Controller may be as law requires that such proceedings cannot be summarily rejected as these objections could be taken care of while framing issues, however counsel appearing for petitioner submits that reasoning reached was not lawful.

The reasons assigned by the Rent Controller were not exhaustive, it includes all such reasons that are available under the law i.e. all those objections, which were either curable or it requires factual analysis, and for which appropriate issues could be framed at the relevant time while the proceedings were pending and likely to be disposed of on merits and hence on these factual counts summarily application for eviction cannot be rejected.

In addition to above, since statute does not provide remedy of appeal, this petition has been filed to invoke jurisdiction of this Court under Article 199 of Constitution of Islamic Republic of Pakistan, 1973. By dismissal of an application under order VII rule 11 CPC, none of the fundamental right of the petitioner was violated to invoke the jurisdiction of this Court. The lis is also between private parties. The objections of the petitioner in terms of Board Resolution and/or any other legal objection would still be intact as it was only a dismissal of application under order VII rule 11 CPC as not warranted under the law at the relevant time. The objections would remain alive as far as maintainability of eviction application and an application for fair rent is concerned. The Rent Controller would be under an obligation to see if such defects are curable at the later stage or if such applications could be maintained by the person not being authorized on behalf of the Trust, as alleged, and for that appropriate issue may be framed as deem fit and proper under the circumstances of the case. The whole gummit of the lis is yet to be decided and hence if an appeal against such order could not be maintained, how this alternate recourse be made available, when no fundamental right of the petitioner seems to have been violated.

With these observations, petition is dismissed along with listed applications however with the observation that Rent Controller may frame appropriate issues in terms of the objections as raised by the petitioner in its written statement and decide it in accordance with law.

Judge