

IN THE HIGH COURT OF SINDH AT KARACHI

BEFORE:
Mr. Justice Muhammad Shafi Siddiqui

C.P. No. S-1890 of 2016

Mrs. Israr (Amna Begum) & others
Versus
S.M. Mohammad Iqbal & others

Date of Hearing: 23.10.2017

Petitioners: Through Mr. Naheed Afzal Khan Advocate

Respondent No.1: Through Ms. Shamim Akhtar Advocate

J U D G M E N T

Muhammad Shafi Siddiqui, J.- This petition is filed against the concurrent findings of two Courts below. Rent Case No.09 of 2015 was filed by respondent No.1 under section 15 of Sindh Rented Premises Ordinance, 1979 stating therein that he has purchased the subject property through a registered conveyance deed on 04.03.2014. Originally Muhammad Israr was the tenant of the premises and on his sad demise the petitioners became the statutory tenants, as being in occupation.

Counsel for the petitioners submitted that petitioners claimed to have invested a sum of Rs.4,40,000/- which is also stated to be considered as 'Pugree' amount. He stated that a sum of Rs.700/- was the amount which was last paid as rent per month. Learned counsel submitted that petitioners have denied the exorbitant rent of Rs.15000/- per month towards the rent. Learned counsel has further denied that any notice under section 18 of Sindh Rented Premises Ordinance, 1979 was issued or served upon the petitioners.

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

Admittedly, the rent order under section 16(1) of Sindh Rented Premises Ordinance, 1979 was passed on 07.07.2015 after considering

the objections of the petitioners. The Rent Controller directed the petitioners to deposit the rent at the rate of Rs.15000/- per month on or about 10th of every month w.e.f. March, 2014 onwards. The petitioners have not complied with the order and consequently application under section 16(2) of Sindh Rented Premises Ordinance, 1979 was filed in pursuance of which the defence of the petitioners was accordingly struck off vide order dated 03.11.2015 and the petitioners were directed to hand over possession within 30 days. Aggrieved of the order an appeal was preferred which was also dismissed on 07.10.2016.

The petitioners has no answer to a query as to why the rent was not deposited/paid to the respondent once the notice of ejectment application was served upon the petitioner. The ejectment application was supported by a conveyance deed dated 04.03.2014 as Annexure 'A' to the ejectment application yet the petitioners not only failed to tender the rent after service of notice of the ejectment application but even after passing of the tentative rent order. If at all the petitioners claimed to have deposited the rent up to June 2015 in M.R.C. No.239 OF 2008 there is also no answer as to why they have not deposited the rent thereafter i.e. 07.07.2015 as the order was passed on 07.07.2015. Paragraph 3 of the order provides that the opponents (petitioners) failed to deposit monthly rent w.e.f. March 15 (2014) as well as future monthly rent as there is no explanation as to non-deposit of rent after June, 2015.

As regards the claim of investment/Pugree of Rs.4,40,000/- is concerned, the same cannot withstand the default that has been committed by the petitioners. The Rent Controller cannot adjudicate upon the issue of Rs.440,000/- either as investment or to be considered as Pagree amount hence this petition filed against the concurrent findings of two Courts below which findings being based on reasoning and supported by documents i.e. conveyance deed in respect of the

demised premises, does not merit consideration. Since this petition is against the concurrent findings of two Courts below who have appreciated the material available on record hence no interference is required. Accordingly, the petition along with pending application was dismissed on 23.10.2017 of which these are the reasons.

Dated:

Judge