

IN THE HIGH COURT OF SINDH, KARACHI
C.P. No. 311 of 2022

Petitioner : Muhammad Ali Hyder s/o Muhammad Jameel Babar, through Mr. Liaquat Ali Khan, advocate

Respondent No.1 : Mst. Sara w/o Jamil Ahmed (*nemo*)

Respondent No.2 : Vth Rent Controller (East), Karachi (*nemo*)

Date of hearing : 27.04.2022

Date of order : 27.04.2022

ORDER

ZAFAR AHMED RAJPUT, J:- By invoking constitutional jurisdiction of this Court under Article 199 of the Islamic Republic of Pakistan, 1973, the petitioner has assailed the order, dated 09.03.2022, whereby learned Vth Rent Controller (East), Karachi while allowing application under section 16(1) of the Sindh Rented Premises Ordinance, 1979 (*“the Ordinance”*) in Rent Case No. 29 of 2021 directed the petitioner/opponent to deposit arrears of rent @ Rs. 30,000/- per month from September 2020 to till date of order within 15 days and future rent with the Nazir of the Court by 10th of each English calendar month, with directions that the rent so deposited shall not be withdrawn by the respondent No.1/ applicant till further orders.

2. On 01.04.2022, learned counsel for the petitioner was put on notice to satisfy the Court as to the maintainability of the petition as an interlocutory order passed in a rent case has been impugned through the instant petition.

3. Learned counsel for the petitioner contends that the respondent No.1 sold out demised premises i.e. Bungalow bearing No. B-10, situated in Saima Luxury Home, Korangi, Karachi to petitioner’s father against sale consideration of Rs. 85,00,000/- and she is duty bound to execute lease deed in favour of petitioner’s father after receiving balance sale consideration. He further contends that the father of the petitioner has already filed a civil suit for specific

performance and injunction bearing No. 17 of 2001 before this Court, wherein interim order is operating in favour of petitioner's father and the aforesaid rent case was filed by the respondent No.1 subsequently; therefore, there exists no relationship of landlord and tenant between the parties. He further contends that the learned Rent Controller, without framing and deciding a preliminary legal issue with regard to the existence of relationship of land lord and tenant between the parties, passed the tentative rent order illegally; hence this Court can interfere into the matter under its constitutional jurisdiction.

4. Heard the learned counsel for the petitioner and perused the material available on record.

5. The learned counsel for the petitioners has focused his contentions on the sole point that the impugned order has been passed by the learned Rent Controller without framing and deciding preliminary legal issue with regard to the existence of relationship of land lord and tenant between the parties. The impugned tentative rent order of the learned Rent Controller is interlocutory / interim in nature and the same is even not appealable under the Ordinance. No order has yet been passed by the learned Rent Controller under section 16 (2) of the Ordinance. The provision of appeal has been provided under section 21 of the Ordinance by the legislature against the final order of the Rent Controller. The petitioner will have opportunity to file the appeal if the final order goes against him and he can raise the afore-stated ground too. Therefore, the instant constitutional petition is not maintainable against an interlocutory/interim order of Rent Controller, for the reason that if constitutional petitions are to be entertained against the interlocutory/interim rent orders, the very purpose of section 21 of the Ordinance would be defeated. Reliance can be placed in this regard on the case of Mst. Seema Begum vs. Muhammad Ishaq and other (PLD 2009 SC 45) and Abdul Farooque and another v. Maqsood Ahmed and another (2015 CLC 663) .

6. For the forgoing facts and reasons, instant petition does not merit consideration; hence, the same is accordingly dismissed in *limine*, along with the pending application.

JUDGE

Abrar