

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
C.P.NO. S-664 of 2013

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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For katcha peshi.

23.11.2017

Mr. Arbab Ali Hakro, Advocate for petitioner.
Mr. Aghis-u-Salam Tahirzada, Advocate for respondents.
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Learned Counsel for the petitioner was heard on the earlier date wherein he had opposed the concurrent findings as challenged in the matter on the ground that the rent controller has passed sketchy order without appreciating wedded owners of two flies and the ships other side and whether in the present case the onus of proof has been discharged by the tenant/respondents in the matter. It is contended by the learned Counsel for the petitioner that the eviction application was filed on two grounds on default and alteration of the rented premises and that the grounds were not appreciated by the learned rent controller as well as the learned Appellate Court.

Having heard the learned Counsel for the petitioner on the earlier date and today the learned Counsel for the respondents, it is contended by the learned Counsel for the respondents that a well reasoned order has been passed by the rent controller, wherein the requires have been appreciated as the petitioner was unable to prove his case as the eviction application was dismissed by the learned rent controller and that the Appellate Court had maintained the order rightly.

Having heard the learned Counsels and gone through the record, I have failed to understand as to why the rent controller had preferred to obtain evidence of the opponent if the sketchy findings restricting of two portions of the petitioner depositions were to be considered. The reason being that the rent controller is bound to hear both the parties in accordance to the provision of Sindh Rented Premises Ordinance, 1979, only after keeping the juxtaposition variation to

the parties is to decide the limited formats as available. In the present case, the quality of judgment as given by the rent controller cannot be appreciated in any manner. The renter controller has first failed to consider that irrespective to the alleged variation in the contents of the eviction application and depositions, the matter was to be considered and entertainable in respect to the depositions made before the Court as the portion where evidence comes before the renter controller. The positions between the parties wherein the relationship was never denied cannot be so conveniently kept on the basis of notice and earlier proceeding as the relationship of the parties is specifically to be dealt with under the jurisdiction of the rent controller. Appellate Court's judgment is also found upto the mark as though a portion of evidence was discussed as to default strength the onus was not shifted and that as to the other issue it is apparent that the Appellate Court came to the conclusion that the changes were made but they were left to the words extent i.e. the rent controller as though was required to determine the extent of reduction of value which entertain to the law. In the circumstances, both the findings by the learned rent controller as well as Appellate Court cannot be sustained in law and existence of the same is a violation of fundamental right of the petitioner, as such, both the orders are set-aside and the matter is remanded to the Court of learned rent controller for re-write of the judgment. It is clarified that the matter is not remanded for hearing. The rent controller in the circumstances will consider the evidence already present on record and made hear the Counsels if any assistance in this regard is required, however, no further evidence shall be taken in the matter as basically the matter is being remanded for re-writing the judgment to be decided within a period of three weeks.

JUDGE