

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.

F.R.A No. 03 of 2017.

Present.
Mr. Justice Muhammad Shafi Siddiqui.

Date of Hearing: 19.10.2020.

Date of Judgment: 19.10.2020.

Appellant: Through Mr. Irfan Ahmed Qureshi, Advocate.

Respondent: Through Mr. Ahok Kumar Advocate.

J U D G M E N T

MUHAMMAD SHAFI SIDDIQUI, J.- This is a first rent appeal in respect of an eviction application bearing Rent Application No.05 of 2015. The eviction application was filed under section 17 of the Cantonment Rent Restriction Act, on the ground of default in the payment of maintenance charges to the concerned department of Cantonment Board. The application also contains a ground that the rent was not increased periodically and that the applicant required the shop for his personal bonafide use.

2. During the pendency of the eviction application and after the reply of the appellant, the landlord/respondent also moved an additional application in the same Rent Application No.5/2015 and it is contended that the appellant has sub-letted, and altered/revamped the design of the shops in question. The Reader of the Rent Controller was asked by the Presiding Officer to submit report which he did on 27.04.2017. On the basis of the said report alone the eviction application was allowed. Hence this appeal.

3. Learned counsel for the respondent has appeared in pursuance of the notices issued to them. When enquired, he conceded that there is no evidence of the parties recorded. No opportunity to lead evidence was provided. Even the respondent/landlord has not filed any affidavit-in-evidence of himself or any of his witnesses. No issues were framed and on the basis of solitary report of the

Reader of the Rent Controller, this eviction application was considered and allowed.

4. I am quite surprised to see the strange procedure followed by the Rent Controller of the Cantonment Board. Impugned order totally lacks the procedural requirement. Once the eviction application is filed and responded in terms of written statement wherein the appellant has denied the contents of the application and there is no question of any admission at all, the evidence is inevitable. It appears that without application of mind and in a summary manner the eviction application was allowed. The said Rent Controller seems to be totally unaware of legal process required and not well equipped and trained as far as legal and procedural requirements of the adjudication are concerned. It requires a trial and probe of issues which could only be possible through evidence of the parties. It seems to be a mere desire and whim of the Rent Controller to have relied upon reader of Court. The Rent Controller relied upon the report of the Reader who was not even directed to appear in the witness box or be confronted by any of the party. I would expect that these Rent Controllers of Cantonment Boards, while being appointed to preside as Rent Controller or any other adjudication, should have a good background of law both procedural as well as the substantive law as these applications are not required to be dealt with summarily by exercising a discretion as desired.

5. In view of above I set-aside the impugned order passed on Rent Application No.05 of 2015, and remand the case back to the Rent Controller Cantonment Area Hyderabad for a decision in accordance with law.

6. It is expected that the trial Court shall pass a speaking order after affording opportunities to the parties if they so desire within a period of one year and report of compliance be submitted.

The appeal is allowed in the above terms.

JUDGE

A.