

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
CP.No.S-171 of 2020

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Date                      Order with signature(s) of Judge(s)

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1. For orders on office objection as at "A".
2. For hearing of main case.
3. For hearing of CMA No. 784 of 2020 (Stay).

**03<sup>rd</sup> March 2020**

Mr. Masjood Ali Memon, advocate for petitioner.

Mr. Munir uddin, advocate for respondent No.1.

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Heard learned counsel for the respective parties.

At the outset, learned counsel for the petitioner contends that respondent filed eviction application under Section 16 (1) of Sindh Rented Premises Ordinance, 1979 (SRPO) which was allowed, hence, the petitioner preferred FRA; during proceedings of FRA, parties reached on compromise whereby petitioner was required to deposit the amount in the following terms and conditions:-

*"That appellant shall deposit Rs.10,000/- on 12-09-2019 and Rs.300,000/- on 14-09-2019 and remaining amount Rs.900,000/- shall be deposited in two installments i.e. first of it of Rs.450,000/- will be deposited on 21-10-2019 and second of it of Rs.450,000/- on 20-11-2019."*

Admittedly, petitioner failed to comply with that order, counsel for the petitioner contends that since petitioner's mother is seriously suffering from the ailment of cancer, therefore, petitioner was unable to deposit that amount as agreed in the earlier FRA No. 39 of 2019, therefore, impugned order is not in accordance with law passed by the trial Court. Petitioner challenged the same in second FRA No. 168 of 2019 that was also dismissed and both the Courts below failed to consider the plea of the petitioner. It would be conducive to determine as point No.1 First Rent Appeal No. 168 of 2019, which is that:-

**"POINT NO.1**

09- After hearing and perusal of record it appears that previously ejection was allowed under Section 16 (ii) SRPO, 1979 and appellant preferred the FRA bearing No.39/2019, but while hearing the above first rent appeal, appellant himself agreed to deposit the arrear of rent in installment before the said appellate court as under:-

*“ That appellant shall deposit Rs.1,00,000/- on 12.09.2019 and Rs.3,00,000/- on 14.09.2019 and remaining amount Rs.9,00,000/- shall be deposited in two installments i.e. first of it of Rs.4,50,000/- will be deposited in two installments i.e. first of it of Rs.450,000/- will be deposited on 21-10-2019 and second of it of Rs.450,000/- on 20-11-2019.”*

The above understanding and compromise was incorporated in the final order dated: 12.09.2019 passed in above FRA by the Hon'ble IIIRD Additional District and Sessions Judge Karachi East. I reproduce the operative para No.6 of order as under:-

*“Both parties further agreed before the court that on said terms the impugned order may be set-aside so that appellant may be given opportunity to submit his defence before the learned rent controller and to lead evidence on it. They further agreed before the court that in case appellant fails to deposit any of said agreed instalments, the defence of the appellant shall stand struck off and the learned rent controller would be competent to dispose of the proceedings ex-parte.”*

Perusal of above in juxtaposition of contentions raised by learned counsel shows that there is no denial that petitioner failed to comply with the order which was passed with his consent, hence, any delay or any excuse cannot deprive the respondent from her legal right. Accordingly, I am of the view that this is not a case wherein *writ of certiorari* can be exercised. Hence, instant petition is dismissed alongwith pending applications.

At this juncture, learned counsel for the petitioner contends that he is ready to evict the premises, if sufficient time is granted. Accordingly, two months' time is hereby granted subject to payment of past and future rents.

J U D G E