

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CP.No.S-1677 of 2017.

Date	Order with signature of Judge
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1. For hearing of CMA No. 7536 of 2017
2. For hearing of main case.

11th September 2020

Mr. Muhammad Yaqoob, advocate, for petitioner.
Mr. Muhammad Mustafa Hussain, advocate for respondent No.1.

Through instant petition concurrent findings passed through impugned order /judgment in rent jurisdiction have been challenged, whereby while allowing the rent case rent was fixed by the Rent Controller, against which appeal was preferred by the petitioner, which has been dismissed

2. Heard learned counsel for the respective parties.
3. At the outset, it would be conducive to refer relevant portion judgment passed by learned trial Court, which is that:-

“....Admittedly the premises is situated in the most ideal commercial place in the heart of city. Applicant has produced several tenancy agreements of the same building which show that the premises in the same building are let out @ Rs.30/- per sq.foot or more. In the cross examination to the applicant effort was made to prove that the tenants who are paying rent at the rate of Rs.30/- per sq.ft. have been provided car parking, wash room etc. but it was denied the applicant, and opponent himself has not led any evidence that such extra facilities are available to those tenants who are paying rent at the rate of Rs.30/- per sq.ft it was suggested to the applicant they have got the rent agreement with Dr. Manji by force, but has failed to produce any evidence. The evidence of applicant therefore, has not been shattered in cross examination and it is proved that the prevailing rate of rent in the area is about Rs.30/- per sq.ft.

I may just mention that the opponent and predecessor-in-interest of the applicant entered into the first tenancy agreement in the year 1986 and rate of rent was fixed at Rs.1200/- per months i.e. Rs.2/- per sq.ft.

This agreement has been filed with the written statement of opponent and it provides 10% increase. If after three years of the said judgment, 10% per annum increase is applied the rent may come near to Rs.18000/- per month. It may also be added that devaluation of Pak currency has remained very high in the recent years, and prices of the properties have gone sky high. Rent of Rs.3,322/- p.m. in respect of the office measuring 600 sq.ft. is not only unfair but ridiculous on the face of it. Fixation of fair rent at the prevailing rate in the area i.e. Rs.30/- per sq.ft. would be just and reasonable. Issue is answered accordingly.

ISSUE NO.4. In view of finding on the above issues application under section 8 of Sindh Rented Premises Ordinance 1979 is allowed and rent of the premises is fixed at Rs.30/- per sq. ft. per month i.e. Rs.18000/- p.m.

Above adjudication made by the trial court was also examined by the appellate Court and the appellate court by order dated 18.05.2017 also reached on the conclusion that:

“I have carefully considered the matter. In the rent application, the respondent sought fixation of fair rent at the rate of Rs.30/- per sq.ft. per month and admittedly, the appellant is paying rent of the subject rented premises at the rate of Rs.5.00 per sq.foot amounting to Rs.3320/-. Both the parties adduced evidence in their respective defence. A perusal of the lease agreement produced at Exh.A/3, it appears that subject demised premises was given to the appellant on monthly rent of Rs.3020/- per month for three years, which was liable for increasing at the rate of 10% per annum, alongwith water and conservancy charges, 10% service charges on every bill, electricity charges etc. and the said agreement has no clause whereby the title/ownership of the subject premises has been transferred to the appellant. Therefore, it is a rent agreement which also establishes relationship between the parties as landlord and tenant. Even then, the appellant also admitted in his affidavit-in-evidence that he is a tenant, which negates payment of goodwill and he also admitted during his cross examination that he has not produced any document to prove the payment such pugree. There is no denial that the subject demised premises was situated in the year 1986 at the rate of Rs.2/- per sq.foot, per month, which was later on increased to Rs.3320/-. And, it has also been admitted the appellant during his cross examination that a distance of few furlong from the

premises in question is Metropole Hotel on the eastern side, at the similar distance there is Karachi Gymkhana, on its northern side, at small distance there is Governor House, and on the South there is Central Hotel Building. Such admission on part of the appellant establish that the subject demised premises is situated in the commercial place in the heart of city and in order to establish his contention, the respondent produced several rent agreements of the same building which could not be shaken during the cross examination. Therefore, findings of the learned Rent Controller regarding fixation of fair rent are soundful after considering evidence and documents brought on record.

In view of such position which is not deniable, I am of the humble opinion that the impugned order dated 11.03.2015, passed by the learned Rent Controller-II, Karachi South, does not, therefore, require any interference. Accordingly, the appeal stands dismissed.”

Admittedly petitioner received possession of demised premises as a tenant in 1986 at the rate of Rs.2 per sq.ft.; property is situated in the area of Saddar adjacent to Metropole Hotel, wherein petitioner is running an office of cargo, hence, Rs.18,000/- per month as assessed and fixed by the Court below is justified, hence, learned counsel for the petitioner has failed to point out any illegality or irregularity in the impugned judgment/order. Accordingly, instant petition is dismissed alongwith pending application.