

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. S – 1005 of 2021

Date	Order with signature of Judge
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1. For order on office objection No.18 as at 'A' :
2. For orders on MA No.6693/2021 (Exemption) :
3. For orders on MA No.6694/2021 (Stay) :
4. For hearing of main case :

**22.09.2022** :

None present for the petitioner.

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On the last date of hearing, notice through ordinary mode as well as by way of pasting was ordered to be issued to the respondent. As the petitioner and his counsel were absent on that date, the office was directed to issue notice even if the process fee was not deposited by the petitioner. The record shows that the notice was pasted at the address of the respondent in compliance of the said order, however, she is absent. The petitioner and his counsel have also chosen to remain absent.

Perusal of the record shows that Rent Case No.545 of 2017 was filed by the petitioner against the respondent seeking her eviction on the ground of default in payment of the monthly rent. Vide order dated 04.01.2020, the said case was allowed by the Rent Controller by directing the respondent to vacate the demised premises within ninety (90) days ; and, the petitioner was directed to pay an amount of Rs.800,000.00 within ninety (90) days to the respondent towards the amount of *pugri* claimed by her. Thereafter, Execution No.01 of 2021 filed by the petitioner was allowed by the Rent Controller vide order dated 11.11.2021 subject to payment of the above mentioned amount by him to the respondent. This petition has been filed by the petitioner against the above mentioned orders to the extent of the aforesaid direction given to him by the Rent Controller.

The impugned direction to deposit the amount of *pugree* given by the Rent Controller to the petitioner / landlord was without jurisdiction as the Rent Controller, being a *persona designata* governed by a special statute viz. The Sindh Rented Premises Ordinance, 1979, had no such power, authority or jurisdiction under the said Ordinance. If the respondent / tenant had any such

claim against the petitioner she ought to have availed her remedy in accordance with law by initiating appropriate proceedings against him before the civil court of competent jurisdiction, and only such civil court could adjudicate her claim. The question of laches to the extent of impugned order dated 04.01.2020 raised by the office shall not arise in this case as the said order was *coram non judice*.

In view of the above, the direction contained in both the impugned orders, being *coram non judice*, is hereby set aside and the petition is allowed in these terms with no order as to costs.

Office is directed to communicate this order forthwith to the Rent Controller concerned through the learned District Judge Karachi South for information and record.

J U D G E