



Appellate Court has admitted such delay by taking a plea that due to economic conditions it was beyond his control. The finding of learned Appellate Court in this regard, whereby a finding of fact in respect of delay in payment of rent has been recorded is as under;

8- It appears from the record that vide tentative rent order dated 12-11-2022, Rent Controller had directed the appellant/opponent to deposit in rent case arrears of rent of demised premises at Rs.60,000/- from the month of April, 2022 within a month and further deposit its future rent at the same rate on or before 05<sup>th</sup> day of every calendar month. Record further shows that appellant/opponent had deposited Rs.120000/- on 19-10-2022 and Rs.60,000/ on 10-12-2022 in MRC No.61/2022 although then he was in rent arrears of Rs.420,000/- till then as such appellant/opponent had committed willful default in clearing arrears of rent. Subsequently, he had paid arrears of two months together with rent of January 2023 as such he was still in arrears of past rent of premises. Record further shows that appellant/opponent deposited future rent of premises for the month of November 2022 on 13-12-2022 after the delay of seven days. Likewise, appellant/opponent had deposited the rent for the month of December, 2022 on 14-01-2023 after the delay of eight days. Thereafter, he submitted the rent for the month of January, 2023 on 06-02-2023 after the delay of one day and he deposited rent for the month of February, 2023 on 22-03-2023 after the delay of sixteen days. This manifests that appellant/opponent had repeatedly violated the tentative rent order of Rent Controller.

In fact, in Para 6 of the grounds taken in this petition again it has been admitted that *“some delay in submission of rent which has happened due to the current economic conditions was pointed out by the counsel of the appellant at the time of hearing, but the same was not taken into consideration”*. To this it may be observed that it could hardly be a ground to entertain this petition, whereas, if it is so, it equally applies in favor of the Respondent; hence, liable to be discarded. It is settled law that the ambit of a writ petition is not that of a forum of appeal, nor does it automatically become such a forum in instances where no further appeal is provided<sup>1</sup>, and is restricted inter alia to appreciate whether any manifest illegality is apparent from the order impugned. As noted hereinabove, delay is admitted, and therefore, no exception can be drawn to such admission in this Constitutional jurisdiction, which otherwise has a very limited scope. Insofar as the plea for de novo appreciation of evidence is concerned, it would suffice to observe that writ

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<sup>1</sup> Gul Taiz Khan Marwat vs. Registrar Peshawar High Court PLD 2021 SC 391

jurisdiction is not an amenable forum in such regard<sup>2</sup>. In cases wherein the legislature has provided only one Appeal as a remedy, like family and rent cases, it has been the consistent view of the Apex Court, that invoking of Constitutional jurisdiction in such matters as a matter of right or further appeal is not a correct approach. In Hamad Hasan<sup>3</sup> the Supreme Court has once again deprecated such a tendency and has held that that in such matters the High Court does not ordinarily appraise, re-examine evidence or disturb findings of fact, whereas, constitutional jurisdiction is not a substitute of appellate / revisionary jurisdiction

In view of hereinabove facts and circumstances of this case and the finding of facts so recorded by the two Courts below, this Court under its limited Constitutional jurisdiction in the matter in hand, cannot go any further to reappraise the evidence; hence this petition being misconceived is hereby dismissed in *limine* with pending application.

**J U D G E**

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<sup>2</sup> 2016 CLC 1; 2015 PLC 45; 2015 CLD 257; 2011 SCMR 1990; 2001 SCMR 574; PLD 2001 SC 415.

<sup>3</sup> judgment dated 17.07.2023 in M.Hamad Hassan v. Mst. Isma Bukhari & Others (Civil Petition No.1418 of 2023-SC citation 2023 SCP 197)