

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P-S No.77 of 2024

Date	Order With Signature Of Judge
1.For order on MA No.7174/24	
2.For hg of CMA No.1140/24	
3.For hg of main case	
16.08.2024.	

Mr. Murtaza Haider, advocate for petitioner.
M/s. Mukesh Kumar G. Karara and Sajid Ali, advocates
for respondent No.1.

MUHAMMAD IQBAL KALHORO, J:- Respondent No. 1, the landlord, filed an application under section 8 of Sindh Rented Premises Ordinance, 1979 against petitioner, a tenant, for fixation of fair rent in respect of Shop No.84, Ground Floor of Shevakunj Building, Survey No.10, RB-5, Shahrah-e-Liaquat, Aram Bagh Quarters, Karachi. This application after recording of evidence was decided by the Rent Controller vide Judgment dated 05.08.2023 in terms of paragraph 19, fixing past rent from filing of application till disposal of the case at the rate of Rs.15000/- per month and future rent starting from the date of passing of the said judgment dated 05.08.2023 at the rate of Rs.25,000/- per month.

2. This judgment was challenged by the petitioner in First Rent Appeal No.225 of 2023 before the learned VIIth Additional District Judge, Karachi-South, which has been decided by the impugned judgment dated 09.12.2023 upholding the findings of the learned Trial Court; hence, this petition.

3. The case of the petitioner is that once the fair rent is fixed under section 8 of SRPO then in terms of section 9 of SRPO the increase, if any, will not be effected until a period of three years has elapsed, and second it will not exceed 10% per annum. According to him, when the learned Rent Controller fixed the past rent at the rate of Rs.15,000/-

then he had no jurisdiction to fix the future rent at the rate of Rs.25,000/- because section 9 limits his jurisdiction to grant 10% increase per annum in the rent fixed by him under section 8 of SRPO and that too not before three years period has lapsed from the date of fixation of fair rent.

4. On the other hand, learned counsel for respondent No. 1 has submitted that the Rent Controller has decided only one application under section 8 of SRPO and the argument of learned counsel for the petitioner is based on misunderstanding, more so, this is a Constitution Petition and its scope is limited and there are concurrent findings which cannot be disturbed unless any irregularity or illegality floating on the records is pinpointed.

5. I have considered submissions of the learned counsel for the parties and perused the material available on record. I am of the view that observation of the Rent Controller regarding fixation of past rent at the rate of Rs.15,000/- was not the final determination of the fair rent in terms of section 8 of SRPO. On the contrary, it appears that while fixing the past rent, he has taken a lenient view and fixed it at the rate of Rs.15,000/-. The final determination of fixation of fair rent at the rate of Rs.25,000/- has been done subsequent to above observation, which he has considered to be the fair rent of the premises occupied by the petitioner.

6. The argument of learned counsel that rent of Rs.15,000/- having been fixed for the past period was a final determination of fixation of fair rent is not correct. Because neither such observation could be construed as such nor the order itself indicates of having such leaning. The learned Trial Court has clearly observed that Rs.15,000/- as fixed by it is in respect of the past rent from the institution of the suit till decision of the case. Then it has further proceeded to give the

observation finally fixing the fair rent of the premises at the rate of Rs.25,000/- for future.

7. The learned Appellate Court has rightly attended to this issue and given relevant findings by interpreting scope of sections 8 and 9 SRPO in the context of the relevant facts. Learned counsel for respondent No. 1 has also rightly pointed out that in Constitution Petition the concurrent findings recorded by the Courts below will not be upset unless some illegality or irregularity floating on the record has been pointed out by the petitioner. It is reported that petitioner is occupying the demised shop for 50 years and had been paying the rent at the rate of only Rs.175/- per month. Keeping in view, this background, the fixation of past rent at the rate of Rs.15,000/- per month, for the period as above and future rent at the rate of Rs.25,000/- per month for the final order does not appear to be unjustified. In the circumstances, I find no merits in this Constitution Petition, which is accordingly dismissed.

The petition is accordingly disposed of.

JUDGE

HANIF

