

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

F.R.A. No.39 of 2015

Kifayatullah Anwar  
Versus  
Gohar Yaqoob Khan

Date of hearing : 20.10.2017  
Appellant: Through Mr. Ali Asghar Buriro Advocate.  
Respondent: Through Mr. Mehar Khan Advocate.

J U D G M E N T

Muhammad Shafi Siddiqui, J. - This appeal is arising out of an order dated 27.07.2015 passed under section 17(9) of the Cantonment Rent Restriction Act by learned Addl. Controller of Rents Clifton Cantonment Karachi in Rent Case No.96 of 2014.

Learned counsel for the appellant submits that the period of default or non-compliance of tentative rent order was in respect of period from April 2014 to August 2014. He submits that appellant tendered the rent through cheques, which, per learned counsel, are reflected in the statement titled as 'Statement of Accounts' available at page 87 as Annexure A/9 and that has not been taken into consideration while passing tentative rent order and consequently the defence of the appellant was struck off on account of non-compliance.

I have heard the learned counsel for the parties and perused the material available on record.

It appears that initially a notice was issued by the landlord on 19.04.2014 demanding rent for the month of April 2014, which was replied to by the counsel for the appellant vide their letter dated 30.04.2014. Appellant has nowhere mentioned that the rent for the


month of April was tendered on 15.04.2014 through cheque. All that was stated in the reply was that he would deposit the rent in MRC. There is no justification in view of such reply to believe that such rent w.e.f. April to August 2014 was paid through cheques, as alleged to be reflected in the statement of account privately maintained as they were only bearer cheques. Despite this correspondence and versions between the landlord and tenant, an opportunity was given to the appellant/tenant to deposit the arrears of rent w.e.f. April to August 2014 (five months) at the rate of Rs.20,000/- per month on or before 28.04.2015 yet it was not complied with.

It may also be observed that the relationship between the landlord and tenant got strained when a notice was issued by the respondent/landlord on 19.04.2014, as referred above, yet the tenant claimed to have paid rent through bearer cheques and that too without having any acknowledgement or proof, as no such thing is available on record. Thus, I am of the view that a lawful rent order was passed by the Rent Controller, which was not complied with by the appellant/tenant.

Besides this the tentative order was also in respect of deposit of future rent on or before 5<sup>th</sup> of each English calendar month. The record shows that rent of May 2015 was deposited on 11.05.2015 whereas the rent for the month of June 2015 was deposited on 09.06.2015 belatedly and there is no justification for such delayed deposit.

In the circumstances, I do not see any ambiguity and error to interfere in the orders of the Rent Controller. The Rent Controller was justified in striking of the defence of the appellant for non-compliance of the order. Accordingly, this appeal is dismissed along with pending applications.

Dated: 20.10.2017

  
Judge