JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No. 1592 of 2022

Dr. Samia Afzal

Versus

Additional District Judge & others.

Date of Hearing	:	07.06.2022.
Petitioner by	:	Mr. Hunble Murad Siddiqui Advocate
Respondent No. 3 by	:	Malik Muhammad Ashfaq, Advocate

ARBAB MUHAMMAD TAHIR, J. The instant writ petition has been filed with the following prayer:-

> **"It is therefore respectfully prayed that instant petition may very graciously be allowed and time granted by learned respondent No. 1 for vacation of premises (H. No. 34, St. No. 4, Sector F-8/3 Islamabad) by 15.05.2022 may be extended to 15.08.2022 so that petitioner's children with the peace of mind may take and complete their examination and petitioner may also be able to arrange alternate rented premises for accommodation-dwelling."**

2. Precisely, on 10.12.2021 respondent No. 3 *(Yasmin Ara Begum*) (*hereinafter to be referred as* "**landlady")** filed an ejectment petition under section 17 of the Islamabad Rent Restriction Ordinance, 2001 "**IRRO, 2001**" against the petitioner (*hereinafter to be referred as* **"tenant**") for eviction of the latter from H. No. 34, St. No. 4, Sector F-8/3 Islamabad (*hereinafter to be referred as* **"rented premises")** and for recovery of outstanding rent. The learned Rent Controller after hearing the parties, directed the tenant to pay tentative past rent from September 2021 to March, 2022 at the rate of Rs. 157,000/- per month till 26.03.2022, Rs. 1,099,000 in-total with stipulation that in case of failure, penal provision of section 17 (9) of the IRRO, 2001

would be applied. In-addition the tenant was also directed to deposit monthly rent in the account of the Court before 15th of every month. The petition was then adjourned to 26.03.2022 for submission of receipts by the tenant. On the date fixed, the tenant failed to comply with the direction which led to closure of her defence in terms of section 17 (9) of the IRRO, 2001 and consequently eviction petition was allowed and the tenant was directed to handover the possession of the rented premises to the landlady forthwith.

3. Against the order ibid, the tenant preferred an appeal in terms of section 21 of the IRRO, 2001 on 06.04.2022 which was decided vide judgment dated 20.04.2022. For effective adjudication, operative Para 5 of the order dated 20.04.2022 is reproduced:-

> **"**Today, the learned counsel for the appellant contended that the appellant is ready to deposit the rent for the month of April and May and sufficient time till end of May, 2022 may be given to the appellant. On the other hand, learned counsel for the respondent contended that the appellant had not paid the defaulted rent as was directed by the Court; however, keeping in view the month of Ramzan and Eid he has no objection for the possession of the rented premises remained with her till mid of May, 2022. In support of this contention he signed order sheet as token of correctness of his statement. Hence, by invoking the jurisdiction under Section 21 (6) of IRRO, 2001, the instant appeal stands dismissed summarily with no order as to costs but since learned counsel for the respondent has no objection to grant of time to retain possession of premises till 15th may, 2022, hence, appellant is allowed to retain possession of premises till 15th may, 2022 subject to deposit of rent of April and 15th May, 2022. However, this order has no bearing on the initial order of this Court dated 06.04.022. The record of learned Rent Controller be retuned forthwith. File be consigned to record room after its due completion."

4. The operation of Judgment ibid was made inoperative upon interlocutory order dated 06.04.2022 whereby the tenant was directed to pay outstanding rent of Rs. 1,099,000/- as directed by the learned Rent Controller. The tenant with the consent of the landlady was allowed to retain possession of the rented premises till 15th May, 2022 subject to deposit of rent of April and 15th May, 2022.

5. The landlady once again through the instant writ petition came up with the prayer for extension in time for vacation of the rented premises till 15th of August 2022 on the ground of examination of her children and her proceeding to perform 'Hajj' from 2nd of July, 2022 for a fortnight. She explains her stance in ground b & d which has been resisted by learned counsel for the landlady by terming the same as lame excuse in order to avail maximum benefit of possession and to frustrate the orders of eviction besides payment of outstanding rent.

6. Heard, record examined.

7. There is no contest on legal premises with regard to validity or otherwise of the eviction orders passed by the two learned Lower Courts as the tenant is asking for retention of the rented premises up till 15.08.2022 for which she is ready to deposit the rent due.

8. It is a matter of record that earlier the tenant was granted grace period by the learned Appellate Court with the consent of the landlady. She again came up with the identical request on humanitarian grounds i.e. exams of her children and going to perform 'Hajj'. The landlady though resisted the request but considering the fact that the tenant, a lady besides single parent, had made no contest to the claim of the landlady for eviction of the rented premises which retains status of "*residential*", by considering her request bonafide, she is allowed to retain possession of the rented premises till 15.08.2022 subject to payment of entire outstanding rent amount. The tenant shall handover peaceful and vacant possession of the rented premises to the landlady on or before 15.08.2022.

9. The instant writ petition is **disposed of** in the above terms.

(ARBAB MUHAMMAD TAHIR)
JUDGE

//Kamran//