

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P. No.2708-2019

Dr. Shahid Rashid Butt

Vs.

Rent Controller (West), Islamabad etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	30.09.2019	Mr. Tahir Jalal Watto, Advocate for petitioner.

Through the instant petition, the petitioner has assailed order dated 26.06.2019 passed by respondent No.1, whereby right of petitioner to file documentary evidence, was struck off.

2. The facts, in brief, are that petitioner is tenant of respondents No.1 & 2 with respect to Office Nos.1, 2 & 3 situated at 1st Floor, Block No.16-A, Mount View Plaza, F-6 Markaz, Islamabad. Respondents No.2 & 3 filed eviction application with respect to the property in question against the petitioner, in which, the case was fixed for documentary evidence of the petitioner. The order sheets reflect that in the past as well, the case was fixed for documentary evidence of the petitioner and was being adjourned on account of petitioner. On 26.06.2019, right to lead documentary evidence was struck off, hence this petition.

3. Learned counsel for the petitioner contended that petitioner could not appear on the date in question, as the date was noted wrongly. When confronted regarding maintainability of instant petition in light of the fact that order impugned is interim in nature,

learned counsel for the petitioner was unable to assist the Court in this behalf.

4. Arguments advanced by learned counsel for the petitioner have been heard and the documents, placed on record examined with his able assistance.

5. It is an established principle that writ petition under Article 199 of the Constitution is not available against an interim order unless same is without jurisdiction or suffers from patent illegality. In the instant matter, the petitioner failed to comply with order dated 26.06.2019 passed by learned trial court to lead documentary evidence. Even, examination of order sheets shows that on the previous date as well, the matter was being adjourned for the same proceedings without any progress. The order impugned is not without jurisdiction or illegal, hence petition is not maintainable.

6. In view of above, instant petition is without merit and is accordingly dismissed in limine.

(AAMER FAROOQ)
JUDGE

Zawar