

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

I.C.A. No.152/2020
Muhammad Rukhsar
versus
learned Rent Controller, Islamabad & another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	22.06.2020	Mian M. Arshad Javed, Advocate for appellant.

MOHSIN AKHTAR KAYANI, J: Through this intra court appeal, the appellant has assailed order dated 05.06.2020, passed by learned Single Judge in Chambers in W.P. No.777/2020, whereby learned Rent Controller was directed to pass appropriate order under Section 17(8) of IRRO, 2001.

2. Learned counsel for appellant contends that eviction proceedings have been filed by respondent No.2 against appellant, which are pending before the learned Rent Controller, however the appellant is aggrieved with the order dated 17.02.2020, whereby issues were framed, including the question of maintainability; that the question of leased area has already been settled in separate civil proceedings and as such, the eviction proceedings under Section 17 of IRRO, 2001 are not maintainable, but the learned Rent Controller without advertng to question of maintainability framed the issues; that learned Single Judge in Chambers without considering those questions raised in order dated 17.02.2020 by the learned Rent Controller has taken up a new question that learned Rent Controller has not passed any order in terms of Section 17(8) of the IRRO, 2001; that the learned Single Judge in Chambers could not go beyond the mandate of order dated 17.02.2020, passed by learned Rent Controller, which is subject matter of the writ petition.

3. Arguments heard, record perused.

4. Perusal of record reveals that the appellant is mainly aggrieved with the framing of issues by the learned Rent Controller in the eviction proceedings and contends that eviction petition could have been decided without framing the

issues, whereas the learned Single Judge in Chambers after perusal of entire record has passed the order to decide the question of tentative rent in terms of Section 17(8) of the IRRO, 2001, which is missing in this case.

5. The observation passed by the learned Single Judge in Chambers is based upon a legal principle that learned Rent Controller has to pass a speaking order in terms of Section 17(8) of the IRRO, 2001 before framing of the issues, however when confronted learned counsel for appellant contends that appellant has paid the advance rent and as such, there is no requirement to pass any order under Section 17(8) of the IRRO, 2001, but he candidly conceded that it is necessary to pass such order before framing of the issues.

6. Keeping in view the above position, the question of maintainability of the rent proceedings is still in field and same could only be answered by the learned Rent Controller after hearing the parties, including the question of tentative rent. As such, the order impugned before learned Single Judge in Chambers is interim in nature and no final adjudication has been made by the learned Rent Controller as well as by the learned Single Judge in Chambers, therefore, instant ICA is not maintainable and same is hereby ***DISMISSED in limine***. The appellant is directed to appear before learned Rent Controller for compliance of direction passed by learned Single Judge in Chambers.

(FIAZ AHMAD ANJUM JANDRAN) (MOHSIN AKHTAR KAYANI)
JUDGE JUDGE

Khalid Z.