## ORDER SHEET IN THE HIGH COURT OF SINDH AT KARACHI

## R.A Nos.216, 217, 218 & 219 of 2004

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Date Order with signature of Judge

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Mst. Mahpara

Applicant : through Mr. Muhammad Akbar

Awan, advocate.

Govt of Sindh, through Secretary Town & Local Bodies

Respodnent No.1 : through Syed Alley Maqbool Rizvi,

& Ms. Naheed Akhtar, AAG.

**Executive District Officer,** 

Respondent No.2 : None present.

**Distirct City Govt.** 

Respondent No.3 : None present.

Mian Zarif Shah

Respondent No.4 : None present.

**Date of hearing** : 02.05.2016

Nazar Akbar.J- I intend to dispose of all these four revisions filed by the same applicant through this common judgment with identical suits No.372/1999, 351/1999, 358/1999 & 366/1999, that all the suits have been dismissed by the trial court by order dated 22.5.2002 through a comprehensive judgment and decree. The appellant preferred Civil Appeal Nos.176/2002, 177.2002 178/2002 & 179/2002, all the appeals were also dismissed by identical judgment dated 17.3.2004 thereafter against concurrent findings applicant filed these revision applications on 03.06.2004. The Plaintiff in all the cases has made following prayers before the trial court.

- a. Declaring that the Plaintiff is entitled to the possession of the plot in question i.e plot No.N-779 Sector 6-J/1 from the Defendant No.4.
- b. A further declaration that the Defendant No.4 has no right or title to hold plot any longer and he is liable to vacate the same after demolishing the construction unauthorizedly raised on the plot in question.
- c. A further decree of possession be passed against the Defendant No.4 handover the possession of the plot in question to the Plaintiff and if the Defendant refuses to vacate the same he or anybody found in possession of the plot in question be ejected through process of law.
- d. A permanent injunction be issued against the Defendants directing them not to interfere with the lease of the plot in question granted in favour of the Plaintiff.
- e. Pending the decision of this suit and interim injunction be passed against the Defendants directing them not to deal in any manner with the title of the Plaintiff in respect of the plot in question.
- f. Be further pleased to direct the Defendant No.4 to pay the special cost U/s.35(A) CPC to the Plaintiff.
- g. Any other relief or reliefs which this Hon'ble Court deems fit and proper in the interest of justice.

The applicant has failed to establish having entered into suit property at any point of time. Courts below on the basis of the judgment passed by a Division Bench of this Court in CP No.1798/1997, have come to the conclusion that these allotting of plots in suit land and subsequent transfer by the KDA was unlawful and illegal since Board of Revenue has not transfer the piece of land to the KDA.

The observation of Division Bench of High Court is as under:-

"The area leased out by the K.D.A in this scheme is without justice, and illegal and requires cancellation on the part of K.D.A. Since the land

in question has not been transferred to K.D.A. by Revenue Department, allotments etc. made by the K.D.A. and subsequent transfer of plots on the basis of these allotments are also void".

Learned counsel has not been able to satisfy the court that in the absence of lawful authority to allot him plot and subsequent lease how can civil court can declare, he has lawful owner not only that KDA is lawful finding of the court against such allotment from the D.B is also in the field.

In view of the above concurrent findings of the courts below appears to be just and fair and there is hardly any evidence which may consider as non-reading by the court while dismissing the suit as well as appeal in view of the above these revisions stands dismissed with no order as to costs.

**JUDGE**