

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**Suit No.1516/2015**

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Date	Order with signature of Judge
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1. For hearing of CMA No.11799/2015 (U/o.39 Rule 1 & 2 CPC)
  2. For hearing of CMA No.14425/2015 (U/s.151 CPC)
  3. For orders on CMA No.17354/2015 (U/o.12 Rule 16 CPC)
  4. For hearing of CMA No.4478/2017 (U/s. 151 CPC)
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**07.08.2017**

Mr. Abdul Sattar, advocate for the Plaintiff.  
Mr. Mustafa Lakhani, advocate for the Defendant.  
Ms. Rehmat-un-Nisa, advocate for K.D.A.  
Syed Alley Maqbool Rizvi, A.A.G.

. . . . .

Briefly stated, there is no dispute between the Plaintiff and the Defendant regarding equal share in the property bearing Plot No.5, admeasuring 2456 sq.yards Sub-Block-K Block-I, Nazimabad, Karachi. This property was jointly owned by the Plaintiff and the Defendant, subsequently at the request of the joint owners, KDA has already sub-divided this property into two equal portion by virtue of letter dated **07.1.2013** available as annexure 'C' alongwith KDA site plan, which is annexure "C/1". Defendant No.1 does not dispute this fact. It go without saying that annexure 'C' and 'C/1' are not the title documents and do not constitute ownership in the immoveable property. Title document obviously of immoveable property is supposed to be a registered deed. Therefore even partition deed of immoveable property duly documented in the office of Registrar of properties defining both the actual area with metes and bound for each co-owners is compulsorily registerable under **Section 17(1)(b)** of the Registration Act, **1908**. It reads as follows:-

17. Documents of which registration is compulsory. (1)  
The following documents shall be registered, . . . . .

(a) . . . . .

(b) other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title, or interest, whether vested or contingent of the value of one hundred rupees and upwards, to or in immovable property;

Admittedly the value of sub-divided commercial plot admeasuring 1228 sq.yards in Nazimabad is not supposed to be below one hundred rupees.

The only grievance of the Plaintiff, which appears to be lawful, is that after partition of the suit property, since each portion is now owned exclusively and separately by two persons, the partition needs to be registered with Sub-Registrar, showing ownership of independent share / portion of the parties. Therefore the partition deed is supposed to be reduced into writing and duly registered as the registered partition deed would confer ownership right in favour of the Plaintiff and the Defendant to the extent of immoveable property in the possession. Plaintiff is interested in registration of the partition deed for which the Defendant cooperation is imperative. The Defendant in para 5(J) of his written statement categorically stated that he has “**no objection**” to the execution and registration of partition deed at the expenses of the Plaintiff. Therefore in view of the above stated legal position the Defendant is hereby bound down to be available and cooperate with the Plaintiff for signing the required partition deed before the Sub-Registrar in accordance with law so that the title of the Plaintiff in the property bearing Plot No.I-K-05/1 admeasuring 1228 sq.yard situated in Block-K old Nazimabad should be perfected.

Learned counsel for the Defendant undertakes on behalf of the Defendant that once partition deed duly prepared by the Plaintiff is provided to the counsel for the Defendant he will examine the same

and within one week from the date of receiving it the Defendant will appear before Sub-Registrar and Sub-Registrar will register the partition deed after following all legal formalities such as stamping, etc. which is duty of the Sub-Registrar of properties.

By consent of the parties the suit is decreed in the above terms with no order as to cost and all the pending applications are dismissed.

JUDGE

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