

Mr. Zahid Marghoob, Advocate for Respondent Nos.5 to 11 in H.C.A. Nos.221 and 222 of 2005.

Respondent Nos.5, 7, 8, 9, 10 and 11 are present in HCAs Nos.221 & 222 of 2005. So far as Respondent No.6 in both appeals is concerned, she has already executed General Power of Attorney and presently out of Pakistan. Her attorney Mst. Khadija Begum, who is also real mother of Ms. Madiha is present. Court has also seen original power of attorney dated 20.10.2016 duly attested by Embassy of Pakistan in Bangkok.

Muhammad Ali Mazhar, J. All the aforesaid appeals have been filed to challenge the judgment and decree passed by the learned Single Judge of this court in Suit No.705 of 1992 and Suit No.1418 of 1998 vide common judgment dated 16.05.2005. In issue No.6, learned Single Judge held that plaintiffs in Suit No.705 of 1992 are entitled to the relief claimed, and the suit was decreed with cost, whereas, Suit No.1418 of 1998 was dismissed.

2. During pendency of these appeals, the main contesting parties in both suits as well as in High Court Appeals Nos.221 and 222 of 2005 resolved the issue amicably and, now, they have filed application under Order XXIII Rule 3 CPC (C.M.A. No.232/2017) for recording their compromise. Similar application has also been moved in High Court Appeal No.222 of 2005. Before taking up compromise application for orders, we would like to take first High Court Appeal No.292 of 2005, which has been preferred by the Pakistan Defence Officers Housing Authority against the same judgment. In this appeal also, application under Order XXIII Rule 1 CPC has been moved to show that Pakistan Defence Officers Housing Authority has no objection to the compromise reached between the parties in the connected High Court Appeals and this application is duly signed by the learned counsel for respondents No.1 to 7 and respondent No.10. Nobody is present for respondents No.8 and 9. The respondents in this application stated that they do not subscribe the allegations, if

any, leveled against the Pakistan Defence Officers Housing Authority in the judgment. Learned counsel for DHA submits that he has no objection if this appeal is also disposed of in terms of compromise reached between the contesting parties.

3. Now, we would like to take up compromise application filed in High Court Appeals Nos.221 and 222 of 2005, which is common in both appeals. These compromise applications have been signed by the contesting parties and the learned counsel for DHA has also endorsed his no objection. Mr. Nouman Jamali Advocate appearing for Lt. Colonel (Retd.) Wajahatullah Khan Lodhi has also given his no objection to this compromise orally. So far as the respondents Hafiz Muhammad Hanif and Shahid Iqbal are concerned, all the learned counsel appearing for the parties submit that in the trial court they have never appeared at any stage. Hafiz Muhammad Hanif filed his written statement, thereafter, he never appeared while Shahid Iqbal remained absent throughout the proceedings. In these appeals also notices were issued to them but despite issuing various notices in appeals to them, they remained absent. Neither they are aggrieved by the impugned judgment nor filed any appeal. We have also gone through the terms of compromise in which Mst. Khadija Begum and her children have agreed to accept 62.5% of the value of plot in question and Kamran Zafar Farooqui through attorney agreed to the extent of 37.5% of the value of the plot. It is further agreed between the parties that after the transfer of the plot in their name, it will be sold according to the market value.

4. We have noticed condition No.4 of the compromise application which relates to the release/surrender of shares by the respondents No.6, 7, 9 to 11 in favour of their mother and brother. To this particular aspect, we would like to observe that, if they want to

relinquish their shares, the proper course is to execute relinquishment/release deed in accordance with law.

5. In view of the above, the aforesaid appeals are disposed of in terms of compromise jot down in CMA No.232 of 2017 filed in High Court Appeal No.221 of 2005 and C.M.A. No.233 of 2017 filed in H.C.A. No.222/2005 except to the extent of modification in connection with the release of share that will be done in accordance with law.

JUDGE

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