

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**

**H.C.A. No.57 of 2007**

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Date

Order with signature of Judge  
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**Present:**

**Mr. Justice Muhammad Ali Mazhar**

**Mr. Justice Abdul Maalik Gaddi**

Nafees.....Appellant

V E R S U S

City District Government Karachi & others.....Respondents

**28.02.2017**

None present for the legal heirs of the Appellant.

Mr. Osama Aftab Memon, Advocate for  
the Respondent No.1

None present for the Respondent No.2.

Mr. Abdul Wajid Wyne, Advocate for  
the Respondent No.3.

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**Muhammad Ali Mazhar, J:** This appeal has been preferred against the judgment passed by the learned single Judge in Suit No.334/1989 on 22.11.2006. In fact the respondent No.3 filed his suit for specific performance of contract, possession and damages with the plea that he purchased the plot bearing No.ST-20, Block/Sector 11-B, North Karachi Township, Karachi, in an open auction held by the respondent No.1. The learned trial court framed seven issues and finally dismissed the suit. The findings of issues Nos.1 and 2 reflect that on 20.04.1992 advocates for the parties made a joint statement that the vacant possession of the plot has been handed over to the plaintiff on 18.04.1992. The defendant also admitted in the written statement as well as in the evidence that the plot in question was auctioned by them and purchased by the plaintiff and further accepted that in case the balance amount is deposited by the plaintiff

in particular time, the defendant No.1 will perform his part of obligation; hence issue was answered by the learned single Judge in affirmative. The issue No.1 was “*Whether the plaintiff is entitled for the Specific Performance of Contract by defendant No.1*”.

2. This appeal was admitted for regular hearing on 27.03.2007. The record further reflects that the appellant has expired and on 08.08.2014 Mr. Abdul Raqeeb, Advocate appeared on behalf of Mr. Khalid Javed, counsel for the appellant and while making request for adjournment he informed that the appellant has passed away, therefore, sometime may be granted to bring his legal heirs on record and to file amended title. Neither the legal heirs were brought on record nor any amended title was filed. Again on the next date he requested for time to bring the legal heirs on record. On 05.09.2014, he gave the statement that he could not contact the legal heirs of the deceased so the Division Bench of this court directed the office to search out the names of legal heirs of the appellant from suit file bearing No.334/1989 and then issue notice through bailiff as well as pasting. The order sheet dated 30.10.2014 shows that one of the legal heirs of the appellant Wali Muhammad was served but remaining could not be served. The matter was fixed on 15.04.2015, 29.11.2016 and 06.02.2017 but on all these dates nobody appeared for the legal heirs of the appellant and the matter was adjourned in the interest of justice. Today again neither legal heirs of the appellant are present nor their counsel which shows that they have lost interest in this case. This appeal is dismissed.

Judge

Judge

Asif