

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.D-7210 of 2015

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Priority.

1. For hearing of CMA No.35715 of 2017.
2. For hearing of Main Case.

10.05.2018

Mr. Mansoor Akhtar, Advocate for the Petitioner along with Petitioner.

Mr. Ali Ahmed Ghumro, Advocate for Respondent No.2 along with Mr. Kamran Mughal, DGM Legal, EPZA.

Mr. Sarmad Shaikh, Assistant Manager Legal Section EPZA, Karachi.

Mr. Asim Mansoor Khan, DAG.

Learned counsel for Respondent No.2 (EPZA) has filed a statement along with documents, which is taken on record.

The Petitioner has challenged the Show Cause Notice dated 3rd September, 2015 issued by the General Manager, Investment Promotion EPZA, in which while giving reference of Suit No.33 of 1996, the Petitioner was called upon to pay the balance amount.

The chronological events of the case do show that vide order dated 25th November, 2013, the learned Banking Court at Karachi in Execution Application No.23 of 2001 (Suit No.33 of 1996) on the decree secured by the UBL auctioned the building constructed on Plot No.14, Sector A/3, EPZA, Karachi Sindh along with attached movable assets as mentioned in the public auction notice. The bid submitted by the Petitioner was confirmed on “as is where is basis” with the liabilities and dues in favour of highest bidder i.e. the Petitioner with the direction to the Nazir to issue sale certificate and sale proceeds to the decree holder on proper receipt and verification but at the same time, the decree holder was directed to handover the peaceful possession to the auction purchaser. This order on the face of it has attained finality as it was never assailed either by the Decree Holder or the auction

purchaser/petitioner. However, when a Show Cause Notice was issued by the EPZA for payment of outstanding liabilities, the Petitioner has approached this Court. The order of the Banking Court reflects that the amount of bid of Rs.4,000,000/- and the liabilities of US \$ 77,794.96 of the Judgment Debtor No.1 was considered as sale price.

The bone of contention between the parties is with regard to nonpayment of US \$ 77,794.96, the learned counsel for EPZA and the learned Deputy Attorney General both argued that there is no justification to hold this amount after passing the detailed order by the Banking Court. The Petitioner was well aware to the entire liabilities and auction was conducted on “as is where is basis” so there is no justification to challenge the Show Cause Notice here without challenging the Banking Court’s order. The Show Cause Notice was simply issued to make deficiency good in the outstanding amount. They further argued that Petitioner has also failed to pay rental amount as well as utilities charges. Learned counsel for Petitioner argued that they have not been issued license so they could not make the unit functional. However, after arguing at some length, the counsel for Petitioner as well as Respondents have agreed the disposal of this Petition in the following manner: -

- i. The Petitioner shall pay US \$ 77,794.96 to the Respondent No.2 in six equal monthly installments without committing any default in any monthly installment. Time for payment will start from the month of May, 2018. In following months the Petitioner shall pay the installment on or before 10th of every month.
- ii. So far as the arrears of rental amount as well as utility charges are concerned the Petitioner shall also pay the same within six (06) monthly installments in the same manner.

- iii. The current dues on account of rental amount and utilities shall be paid by the Petitioner regularly without any default.

Mr. Kamran Mughal, the Deputy Manager Legal, EPZA submits that the license for conducting the business issued to M/s. Japan and Pakistan Hi-Tech is still valid and the Petitioner may start the same trade on the basis of this license but the Petitioner has to apply the change of name and if they want to start any other business they have to apply for the change of business to the competent authority that will be considered in accordance with law expeditiously. The counsel for the Petitioner agrees to comply with all statutory requirements.

The Petition is disposed of accordingly along with all pending applications.

JUDGE

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