

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

**Suit No.2564 of 2017**

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DATE	ORDER WITH SIGNATURE OF JUDGE
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**Plaintiffs:** **Shahnawaz & others through  
Mr. Mukhtar Ahmed Khoso, Advocate.**

**Defendant No.1,4 & 5:** **Mst. Noor Bibi & others  
Through Mr. Ovais Ali Shah, Advocate.**

**Defendant No.2:** **Muhammad Bux Through  
Mr. Qadir Husain Khan, Advocate.**

**Defendants/  
Govt. Officials:** **Mr. Ali Safdar Depar, A.A.G.**

**Board of Revenue:** **Through Mr. Ghulam Shabbir Shaikh,  
Advocate a/w Jalil Ahmed Brohi,  
Mukhtiarkar Scheme-33, Karachi East  
and Supervising Tapedar Abdul Rauf  
Shaikh.**

For hearing of CMA No.16574/2017  
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**Date of Hearing:** **17.05.2018**

**Date of Order:** **20.06.2018**

**ORDER**

**Muhammad Junaid Ghaffar J.** This is a Suit for Declaration and Cancellation of registered Sale Deeds, whereas, through listed application (CMA No.16574/2017), Plaintiffs seek ad-interim relief from being dispossessed from Survey No.343, 346, 358, 359 area (54-37) acres, Deh Gujro, Scheme-33 Gulzar-e-Hijri, Karachi East, restraining the defendants from selling and alienating and transferring the suit property (59-25) acres to anybody else and further to restrain the Defendants from raising any further construction at the site (suit land).

2. Learned Counsel for the Plaintiff submits that the Plaintiffs are owners of the Suit Property on the basis of five separate registered Sale Deeds executed through registered Sub-Attorney by Defendant No.3 on behalf of Defendant No.1, whereas, the Defendants claim ownership on the ground that Power of Attorney of Defendant No.1 in favour of Defendant No.2 has been revoked, which is not the case. According to him, once registered documents are in field, no exception can be drawn, whereas, the Plaintiffs are in possession, hence the listed application be allowed as prayed.

3. On the other hand, learned Counsel for Defendant Nos.1,4 & 5 has contended that the purported Power of Attorney in favour of Defendant No.2 was firstly never executed and is a fabricated document, whereas, even otherwise it stood cancelled in 2009, whereas, the Sale Deeds have been registered in favour of the Plaintiffs in 2016. He has further contended that the property falls within the jurisdiction of Registrar of Gadap Town, whereas, their Sale Deeds have been registered before the Registrar Gulshan Town, and therefore, no reliance can be placed on such instruments and they have been created to give some impression that some registered instruments are in field. He further submits that Defendant No.1 has also filed a Suit bearing No.1144/2016 for cancellation of Power of Attorney of Defendant No.2 and the Sub-Attorney of Defendant No.3, and therefore, once the owner is before the Court, no case can be made out on the basis of Power of Attorney(s).

4. Learned AAG has filed the comments of the concerned Mukhtiarkar and has contended that appropriate orders be passed by the Court as the dispute is between private parties.

5. I have heard, learned Counsel and perused the record. It appears that the Plaintiffs' claim is that they all have purchased the entire Suit land (different area) individually and separately from Defendant No.3 on the basis of a registered Sub Attorney executed by Defendant No.2, who was given the Power of Attorney purportedly by Defendant No.1 on 11.09.2009. Interestingly, the Plaintiffs have averred that before purchasing they entered into separate agreements with Defendant No.3 and such agreements, which are five in number, are dated 07.08.2009 i.e. much before the execution of the Power of Attorney purportedly executed by Defendant No.1 in favour of Defendant No.2 and so also the Sub Attorney in favour of Defendant No.3. How this has happened has not been explained. A person, who was not holder of any Power of Attorney or for that matter Sub Power of Attorney, could not enter into a Sale Agreement on 07.08.2009. Secondly, It is further averred that all these agreements were made after making payments in cash. This again does not appear to be a bonafide act considering the fact that the person, who was selling these Survey Numbers, was not holding any power or authority to enter any such agreement. It is also a matter of fact and not denied by the Plaintiffs that these Sale Deeds, which they are claiming were registered with the Registrar of Gulshan Town and not with the concerned Registrar of Gadap Town. It also appears to be a matter of fact that Defendant No.1, who claims to be the owner of the property is already before the concerned department claiming that no Power of Attorney was ever executed in favour of Defendant

No.2 and is seeking its cancellation. Once the owner is already before the Court as well as concerned department challenging the very existence / execution of Power of Attorney, coupled with the aforesaid facts, there is hardly any case of the plaintiffs for seeking an injunction at least. If someone has sold property on the basis of forged or invalid power, then they may have a case against the said person, but not against the owner at this stage of the proceedings. Merely for the fact that Plaintiffs' claim to be in possession, no prima-facie case is made out so as to justify their ownership on the basis of the documents referred to hereinabove. The comments of the Mukhtiarkar also reflects that the NOC for sale as claimed by the Plaintiffs was never issued from their office and the same is manipulated and a fake NOC.

6. In view of such facts and circumstances of this case, I am of the view that Plaintiffs have miserably failed to make out any prima-facie case nor balance of convenience lies in their favour and no irreparable loss would be caused to them. Accordingly, CMA No.16574/2017 is hereby dismissed.

Dated: 20.06.2018

Judge

Ayaz