

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.656 of 2008

Shadman Town Partnership Firm-----Plaintiffs

Versus

Afzal Ahmad Khan and others-----Defendants

Date of hearing: 23.11.2017

Date of Judgment 23.11.2017

**Plaintiffs: Through Mr. Muhammad Aziz Khan,
Advocate.**

**KMC: Through Mr. Irfan Hassan Ansari,
Advocate.**

**Defendants
No.1 to 4. Nemo.**

J U D G M E N T

Muhammad Junaid Ghaffar, J. This is a Suit for Declaration and Injunction, wherein, the Plaintiff has sought the following relief(s):-

- i) Declaring that being lawful owner of the suit land the plaintiff is entitled to the restoration of its possession.
- ii) Directing the defendants to vacate and restore possession of the suit land to the plaintiff, which is occupied by them illegally.
- iii) Any other relief(s) deemed proper may kindly be granted along with the costs.

2. The precise case of the Plaintiffs is that they are owner of land consisting Survey Nos. 382, 383, 500, 574, 809, 854, 855 and 856 measuring 28 acres and 39 Ghuntas Deh Thano, Tappo Malir,

Taluka and District Karachi, registered at the office of Sub-Registrar "T" Division Central Karachi vide No.840 pages 101-106 volume 1984 Book-I Addl. Dated 26.10.1978, which was purchased by them jointly and mutation was also affected. It is further stated that under a partnership concern Shadman Town Project was initiated and after approval from the relevant quarters, houses were constructed and sold. It is their case that the private defendants have encroached upon and are in illegal possession of certain land/constructed houses on the amenity plots, hence instant Suit.

3. Summons were issued and as per Order dated 16.11.2009, the Defendants have been declared ex-parte as no written statement has been filed nor any one has affected appearance.

4. Learned Counsel for the Plaintiffs submits that averments in the plaint as well as in the affidavit-in-evidence for ex-parte proof have gone unchallenged, therefore, the Plaintiffs are entitled for Judgment and Decree as prayed.

5. I have heard the learned Counsel and perused the record. It appears that after filing of this Suit, summons were issued but none has affected appearance and the matter has gone uncontested. The Plaintiff has led its evidence by filing affidavit-in-evidence for Ex-parte proof and has exhibited the relevant documents including the ownership and title documents as well as Power of Attorney and Sub Poser of Attorney, which have been exhibited as "Exb.P/A-1" to "Exb.P/A-5". I have gone through these documents and apparently it seems that the contention of the Plaintiffs is correct, whereas, the Defendants have chosen not

to contest this matter either by filing of any written statement or otherwise through arguments or in any other manner.

6. In view of such position as the matter has gone uncontested and on perusal of the documents there does not appear to be any reason to controvert the claim of the plaintiffs. In view of such position the Suit of the Plaintiff is decreed to the extent of prayer clause(s) (i) & (ii). Office to prepare the Decree accordingly.

Judge

Ayaz