

IN THE HIGH COURT OF SINDH, KARACHI

**Suit No. 275 of 2004**

Date	Order with signature of Judge
Plaintiff	: Ghulam Nabi Shaikh, (Nemo)
Defendant No.1	: Firdous Matri, (Nemo)
Defendant No.2	: Afsheen Rehman, Through Mr. Ikhtlaq Mehdi, advocate.
Defendant No.3	: City District Government, Karachi, (Nemo)
Defendant No.4	: Karachi Development Authority, (Nemo)
Defendant No.5	: Shah Rukh Khan, (Nemo)
Date of hearing	: 14.12.2017
Decided on	: 14.12.2017

**JUDGEMENT**

**Nazar Akbar.J,-** This is a suit for specific performance of contract in respect of property bearing House No.C-355, Block No.1 Gulistan-e-Jauhar, K.D.A Scheme No.36, Karachi, admeasuring 600 sq.yds. The agreement of sale is dated **11.3.1996** and the suit had been filed in **2004**. On the face of it, suit appears to be time barred. However, from his own showing in the plaint, the plaintiff was required to pay the balance sale consideration amounting to **Rs.5,25,000/-** within 31 days from the date of signing of the agreement (para-3 of plaint). On the application of plaintiff to restrain the defendants from selling the suit property, this Court by order dated **24.3.2004** had been pleased to direct the plaintiff to deposit balance sale consideration amounting to Rs.5,25,000/- with the Nazir of this Court. The record shows that he has never deposited the balance sale consideration right from 2004 till to-date. The plaintiff failure to deposit balance sale consideration in Court is sufficient to appreciate that the plaintiff was not ready and willing to

perform his part of the contract prior to filing the instant suit and even after the orders dated 24.3.2004. Since the plaintiff has neither followed directions of the Court nor he has ever offered payment of balance sale consideration to the defendant since 1996, therefore, in fact he had no cause of action to file the suit. However, even after recording of evidence the plaintiff's counsel is absent for the last several dates and the suit was once dismissed for non-prosecution and it was restored. Even after restoration Counsel for the plaintiff mostly remained absent.

I have heard learned counsel for the defendant and gone through the record. This being a suit for specific performance of a contract dated 11.3.1996 and the grant of relief is discretionary, in the given facts of the case the Plaintiff is not entitled for any discretionary relief. Consequently the suit is dismissed.

**JUDGE**

SM