

JUDGMENT SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Suit NO.2431 OF 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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Date of Hearing: 09.02.2018

Date of Judgment: 16.02.2018

Mr. Ziyad Khan Abbasi, Advocate for Plaintiff

*M/s. Khursheed Javed & Muhammad Ameen,
Advocates for Defendant No.2.*

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JUDGMENT

AGHA FAISAL, J: The subject suit was instituted for

declaration, cancellation and permanent injunction in the month of

November, 2017 with the following prayers:

- (a) Declare that the plaintiff is lawful / exclusive owner of Industrial Plot No.492-A, measuring 4-00 acres, SITE Area, Nooriabad District Dadu, Sindh, having been acquired by virtue of Agreement to Licence dated 17.03.2005 located as per site plan attached with the Agreement.
- (b) Declare that the Site Plan attached with the Agreement to Licence in respect of Plot No.A-474 (Annexure P/8) is fake, fabricated, engineered having been prepared malafidely, without any lawful jurisdiction and having no legal effects.
- (c) Direct the Defendant No.1 to produce original layout plant of its land situated in Nooriabad in order to confirm the location of Plot Nos.A-492 & A-474 for just and proper conclusion. Further to declare that location of Plot No.A-474 is different to Plot No.A-492.
- (d) Direct the Defendants to submit original Agreement to Licence alongwith Site Plan attached thereto as well as all other documents in respect of Plot No.A-474 with the Nazir of this Honourable Court and/or this Honourable Court may be pleased to cancel the same having no legal value, fake and fabricated.

- (e) Permanently restrain the Defendants, their servants, agents, or any person or persons acting directly or indirectly on behalf of Defendants from creating third party interest, charge, lien in respect of Plot No.A-474, measuring 5-00 acres, SITE, Nooriabad, bounded as on the North 66' Wide Road, on the Sought Plot No.A-397, on the East Plot No.A-287 and on the West Plot No.A-403 as per Agreement to Licence alongwith attached Site Plan (Annexure P/8) and from interfering in the peaceful possession of the plaintiff in subject property i.e. Plot No.A-492, dispossession or creating any kind of obstruction in any manner of whatsoever nature.
- (f) Cost of the suit.
- (g) Any other relief(s) which this Honourable Court may deem fit under the circumstances of the case.

2. The crux of the dispute appears to be land bearing Plot No.492-A, measuring 4-00 acres in SITE Area, Nooriabad District Dadu (hereinafter referred to as the "Subject Land"). (*The reference to district Dadu may be misconstrued, as subsequent to the execution of the documents through which the plaintiff claims title to the Subject Land, Nooriabad was demarcated to fall within the territorial limits of District Jamshoro*). The plaintiff claims occupation of the Subject Land without let or hindrance since the year 2005-2006.

3. The plaintiff claims that in the months of October and November, 2017, it began to appear as if third party interest may have been created in the Subject Land and upon inquiry the plaintiff learnt that another plot bearing No.A-474, measuring 5-00 acres has been juxtaposed on the site plans, of the defendant number 1, upon the very location where the subject plot was located and that the same was sought to be sold, by the defendant No.2, to some unknown buyer.

4. The plaintiff contends that the alleged juxtaposition on the site plans is illegal and amounts to misappropriation of the plaintiff's land by

making double allotment through illegal documentation. The plaintiff has also claimed that the defendant No.1 has colluded with the defendant No.2 in seeking to deprive the plaintiff of his property.

5. Notice of the subject suit was issued on 21.11.2017 and on the very next date of hearing, being 05.12.2017, an objection was raised regarding the maintainability of this suit for an on behalf of the defendant No.2, in apparent conformity with the requirements of section 21 of the Code of Civil Procedure 1908, which states inter alia that objections to jurisdiction are to be raised before the Court of first instance at the earliest possible opportunity. It was contended that since the Subject Land is situated in Nooriabad and the same is located outside the territorial limits of the districts of Karachi, hence this Honourable Court does not have jurisdiction to entertain and/or adjudicate this suit.

6. Learned Counsel for the plaintiff was directed to satisfy this Court with respect to the said objection and as such argue the maintainability of the suit. Subsequently, on 08.02.2018, the learned Counsel for the defendant No.2 placed on record a judgment of this Honorable Court rendered in *SUIT NO.247 OF 2008, M/S. LANDMARK ASSOCIATES V/S. SINDH INDUSTRIAL TRADING ESTATE & ANOTHER* dated 09.01.2018 and submitted that this was the latest successive judgment wherein the original civil territorial jurisdiction of his Court has been determined and further submitted that the present suit and the subject matter therein was clearly precluded from adjudication before this forum in terms of the ratio of the aforesaid judgment.

7. Learned Counsel for the plaintiff was also provided a copy of this latest judgment and he sought a short time to review the same. The

matter was then adjourned to 09.02.2018 for the purpose of conducting a conclusive hearing upon the said issue.

8. On the appointed date, both the learned Counsel argued at considerable length and the order upon maintainability, on account of objection to territorial jurisdiction, was reserved.

9. Mr. Khursheed Javed, assisted by Mr. Muhammad Ameen, Counsel for the defendant No.2 drew the Court's attention to the prayer clauses in general, and prayer clause (a) in specific, and stated that there can be no cavil to the fact that the subject matter of the dispute is land situated in Nooriabad, which is admittedly not within the territorial limits of the districts of Karachi.

10. He further pointed out the agreement of license dated 17.03.2005 executed between the plaintiff and the defendant No.1, by virtue of which the plaintiff claims rights in the Subject Land, clearly states that the said land is situated in Nooriabad.

11. The learned Counsel for the defendant No.2 submitted that the statutory provisions pertaining to the determination of the territorial limits of this Court in original civil jurisdiction alongwith the successive pronouncements of the superior Courts have been meticulously encapsulated in the *LANDMARK ASSOCIATES CASE*, as referred to supra, and that in consonance therewith this Court may be pleased to return the plaint in the subject suit to the plaintiff for presentation before the forum of appropriate jurisdiction, under Order VII Rule 10 of the Code of Civil Procedure 1908.

12. In response, it was contended by the learned Counsel for the plaintiff that this Court was the proper forum for adjudication of the

dispute and that the law cited by the counsel for the defendant No. 2 was distinguishable and inapplicable to the facts under scrutiny.

13. It was argued that since the documentation, conferring the rights in respect of the Subject Land upon the plaintiff, was executed at Karachi and the purported sketches, in respect of the property of the plaintiff, carried the annotation "Karachi", therefore, this Court had exclusive (or in the alternative concurrent) jurisdiction to proceed with the matter.

14. It was further contended that all the parties are based at Karachi and that the license agreement(s) was/were executed in Karachi and the purported fraudulent documentation in respect of the Subject Land was also alleged to have been executed in Karachi, hence the plaintiff was entitled to seek the adjudication of this matter before this Court.

15. It was also contended that the dispute pertains to the agreements, by which the suit property has been conveyed to either the plaintiff or the defendant No.2, and sketches, that juxtaposed the defendant No.2's property upon that of the plaintiffs. Hence it was argued that the physical location of the suit property is immaterial for the purpose of determining the correct forum for adjudication of this matter.

16. The plaintiff referred to the judgment of the Divisional Bench in the case of *MUHAMMAD NAVEED ASLAM & 03 OTHERS V. MST.AISHA SIDDIQUI & 14 OTHERS*, reported as *2011 CLC 1176*, and submitted that the ratio of the same was inapplicable to the present dispute since the plaintiff's cavil is restricted to the juxtaposition of property on the site plan/sketch, which in any event was stated to be tentative in nature.

17. The learned Counsel also referred to the judgment in the case of *HAJI ABDUL MALIK & 10 OTHERS V. MUHAMMAD ANWAR KHAN & 26 OTHERS*, reported as 2003 SCMR 990 and drew Court's attention to the following passage:

*"We have heard the learned Counsel for the parties at length and have examined the matter in detail with their assistance. Under section 16 of CPC a suit for declaration relating to the rights and interest in an immovable property is instituted in a Court within local limits of which the property is situated. The suit for the purposes of determining the rights or interest in the property being different to that of the suit in which the relief claimed does not relate to the rights in the immovable property, can be filed at the place at which the cause of action fully or partly arose. The suit relating to the rights in the immovable property would lie before the Court within the local limits of which the property is situated and if the property is situated outside the territorial jurisdiction of the Court, and the relief being sought in the suit relates to the property, the suit would not be maintainable before any other Court except the one within territorial jurisdiction of which property is situated. In the present case, the parties in the suit in question resided in the local limits of District Mansehra and the agreement was also registered at Mansehra, therefore, cause of action in favour of respondents-plaintiffs relating to the cancellation of agreement would arise at Mansehra. The essential factor for termination of jurisdiction for the purpose of entertaining the suit would be judged from the contents of the plaint and the dispute subject matter of suit and not from the consequence flown from the suit. The declaration in the suit filed by the respondents sought was that cancellation of registration of agreement by the Registrar was illegal which would not relate to the rights and interest in the immovable property and would be confined only to the limited extent of the exercise of jurisdiction by the Registrar. The place of breach of law would furnish the forum for a suit and such place is where some act was to be performed and thus the suit to set aside the document on the ground that it was obtained through misrepresentation would be maintainable at the place where the act of misrepresentation, was committed and if such a document is registered, the suit would be maintainable at the place of its registration. The reference may be made to *Rajlakshmi Dassi v. Banamali* (AIR 1950 Cal. 510). In the case in hand, the document was registered at Mansehra which was subsequently cancelled and the respondents through the suit for the declaration challenged the cancellation of registration as beyond the power and jurisdiction of Registrar, Mansehra.*

In the nutshell, if a suit involves dispute relating to the rights in the immovable property, such suit will be maintainable at the place where property is situated and if the relief does not relate to the rights and interest in the property and is confined only to the extent of an ancillary matter, can be filed at the place where the cause of action wholly or partly arose. The learned Judge in Chambers in the High Court having examined the proposition in detail in the light of relevant statute has held that the suit was maintainable at Mansehra and we are of the view that no exception can be taken to the legal position explained in the impugned judgment in the fact of the present case. Consequently, we for the foregoing reasons, do not find any substance in the present appeal which is dismissed with no order as to costs”.

18. The learned Counsel for the plaintiff then referred to the Divisional Bench judgment in the case of *ITEHAD CARGO SERVICES, NATIONAL HOTEL, LAHORE & 02 OTHERS V. RANA RAFAQAT ALI & 03 OTHERS* reported as *PLD 2002 Karachi 420* and drew Court’s attention to the following passage:

*“Adverting to the first contention of the learned Counsel for the appellant that this Court has no jurisdiction. Such argument is premised on the ground that the head office of the firm is at Lahore, the defendant resides at Lahore and the contract subject-matter of the partnership business was also awarded at Lahore. Large number of cases cited by the learned Counsel for the petitioner does not support the case of the petitioner, for the simple reasons that admittedly the business of the firm of which plaintiff/respondent No.1 was made Incharge was at the branch office Karachi. The case nearest to his argument that could be relied upon is *M/s. Brady & Co. (Pakistan) Ltd. v. M/s. Sayed Saigol Industries Ltd. (1981 SCMR 494)*. In this case it was held that subordinate office simpliciter will not give jurisdiction to the Court as law did not recognize subordinate office of Corporation to be converted through a deeming clause into a place where Corporation “carries on business”. In the said case suit brought at the place where branch office was located, was not considered giving cause of action to file a suit but at the same time it was held that if a cause of action arose at a place where branch office was located then the Court at such place would have jurisdiction. In the case of *Durga Das (supra)* and *Muhammad Adrees (supra)*, it was held that a suit for dissolution of partnership firm with the usual and ancillary relief can be brought where the contact was arrived, agreed to be performed or where cause of action had arisen. In the case of *West Pakistan Industrial Development Corporation v. M/s. Sheikh Muhammad Amin & Co. (1992 CLC 2047)*, the subject contract of which*

breach was claimed was entered into between the parties at Lahore, but breach, therefore, took place at Karachi, it was held that as the breach of contract was committed at Karachi, therefore, Court at Karachi would have jurisdiction to entertain and decide the suit. In the instant case also from the adverted facts it appears that the parties though entered into a partnership agreement at Lahore and also the defendant therein also resides at Lahore, yet the partnership firm had branch office at Karachi, of which the plaintiff/respondent No.1 was the Incharge. The case set-up by the plaintiff in the suit is that the branch office at Karachi was shutdown in connivance with the Railway Authorities and the plaintiff therein was ousted from the partnership business, such fact simply demonstrated that not only the branch office was located at Karachi but the cause of action also arose at Karachi. Cause of action refers to the facts which give occasion to and form the foundation of the suit. It comprises of bundle of facts taken together. Once the party to a contract irrespective of place of principal office is able to successfully demonstrate that the cause of action accrued at a place other than the principal office or at a place other than where contract was originally executed then the principal office or at a place other than where contract was originally executed then the place at which breach had occurred or at a place where a party suffered some inquiry on account of some act of omission or commission relating to the contract inter-se then the cause of action will be considered to have accrued at such place and the Court at such place will always have jurisdiction. Accordingly in our opinion since inquiry complained of accrued at Karachi, it will give jurisdiction to the Courts at Karachi. Where two Courts may have jurisdiction in respect of a same claim then it is the prerogative of the plaintiff that weights more in determining the place of suing.”

19. The learned Counsel for the plaintiff further referred to the judgment in the case of *M/S. POPULAR PHARMACY, KARACHI V. M/S. NOVA BIO MEDICAL & OTHERS*, reported as *PLD 1996 Karachi 411* and drew Court’s attention to the following:

“It was next contended that defendant No.1 neither ordinarily resides nor carries on business nor has a principal or sole registered office at Karachi within the jurisdiction of this Court. In this connection learned counsel referred to section 20, C.P.C which deals with the institution of the suit where defendant resides or cause of action arises. From the title of the plaint it is evident that defendant No.1 does not ordinarily reside in Pakistan and their address as given in the title of the plaint is that of USA but the case of the plaintiffs as per averments made in the plaint apparently falls within the ambit of clause (c) to section 20, C.P.C. which permits the institution of a suit in a

Court within the local limits of whose jurisdiction, the cause of action, wholly or in part arises. A plain reading of the plaint discloses a cause of action arising at Karachi which cannot be brushed aside or excluded from consideration simply because defendant No.1 has merely denied execution of the agreement. For the purposes of assumption of jurisdiction averments made in the plaint are considered to be true and accepted for determination of jurisdiction of a Court. It may suffice to say that according to the plaintiffs averments, agreement between the parties was executed at Karachi, products of defendant No.1 were supplied at Karachi and termination of the agreement took place at Karachi when defendant No.1 abruptly discontinued supply of their products and appointed defendant No.3 as their sole distributor. The statements made in the plaint for the purpose of rejection or return of plaint are ordinarily accepted to be true and it cannot be held by any stretch of reasoning that the cause of action did not arise at Karachi as asserted in the plaint. For this reason alone whether the defendant No.1 ordinarily resides or not or carries on business or not within the jurisdiction of this Court would not by itself be enough to delete their name from the array of parties as the aforesaid defendant is a necessary party to the suit and their presence is necessary for an effective adjudication of the issues at the trial.”

20. The learned Counsel for the plaintiff also referred to another Divisional Bench judgment in the case of *MESSERS SH. MUHAMMAD AMIN & CO. V. THE PROVINCIAL INDUSTRIAL DEVELOPMENT CORPORATION*, reported as 1991 CLC 684 and drew the Court’s attention to the following passage:-

“It will first of all take up issue No.5 in the case which relates to the territorial jurisdiction of this Court. It is contended by the learned counsel for Sheikh Mohammad Amin that this Court had no jurisdiction to entertain the suit as the contract was entered into between the parties at Lahore and, therefore the Court at Lahore had the jurisdiction to entertain this suit. The learned counsel for PIDC on the other hand contended that though the contract was entered into between the parties at Lahore but it was with the consent of the Head officer which was situated at Karachi and as such even in respect of the initial agreement between the parties the breach could be enforced at Karachi. It is further contended by the learned counsel for the PIDC that apart from it after the contract was entered into between the parties the time for performance in the agreement was changed at the request of Sheikh Mohammad Amin and such alteration in the contract had taken place at Karachi and as such the breach of the

performance of the novated contract could be enforced at Karachi. Section 120 of the Code of Civil Procedure provides that the provisions contained in sections 16, 17 and 20 of the Code shall not apply to the High Court in exercise of its original civil jurisdiction. Section 16 of the Code of Civil Procedure relates to the recovery of immovable property, partition of immovable property, foreclosure, sale or redemption in the case of mortgage of or charge upon immovable property determination of any right or interest in the immovable property, compensation for wrong to immovable property and for recovery of movable property actually under distraint of attachment. Section 17 deals with the situation where an immovable property in respect whereof a suit is to be filed to obtain relief for compensation of wrong to an immovable property and it provides that where the property is situated within the local limits and jurisdiction of two Courts the suit could be filed in any one of such Courts. Section 20 provides that a suit is to be instituted where defendant or defendants reside or cause of action arises. Although the provisions of sections 16, 17 and 20 of the Code of Civil Procedure do not apply to the High Court in exercise of its original Civil jurisdiction, the Court will have jurisdiction to entertain a suit if the cause of action has arisen within its local limits of the jurisdiction. No doubt the letter dated 3.5.1967 by which the offer of Sheikh Mohammad Amin was accepted was written by the West Pakistan Industrial Development Corporation, Lahore but it is quite clear from the endorsement on that letter that the acceptance of the offer of Sheikh Mohammad Amin was made with the consent of Deputy General Manager, Sugar, PIDC, Kutchery Road, Karachi, which was accorded to the contract on 24.5.1967. As the contract entered into with the consent of PIDC, Karachi the breach of the agreement, could be enforced at Karachi. Apart from it the original contract between the parties provided for delivery of the entire contract quantity of 8,000 bags of sugar by June, 1967. It is an admitted position in the case that on 13th June, 1967 Sheikh Mohammad Amin applied to Deputy General Manager, Sugar, PIDC, Karachi, requesting the latter to change the delivery date from June to July and August in installments of 400 bags each in every month the change in the delivery time was granted at Karachi and accordingly breach of the altered contract which provides for delivery of contracted goods in two installments of 4,000 bags each in July and August respectively could be enforced at Karachi. We are, therefore, of the view that the suit filed by PIDC at Karachi was fully competent and this Court had the jurisdiction to entertain and decide the above suit. The learned Judge in chamber, therefore, rightly decided the issue No.5 in the negative.”

21. In conclusion, the plaintiff drew the attention of the Court to paragraph 21 of the plaint, which pertains to the accrual of the cause of action, the same is reproduced herein below:

“21. That cause of action arose to the plaintiff in the month of December, 2017 when the representative of the plaintiff observed dubious visits of unknown persons to the subject property and the Defendant No.2 published public notice regarding sale of Plot No.A-474 and later on when the plaintiff obtained the copies of documents he was shocked to see the removal of subject property from the site plan and preparation of fake, fraudulent site plan by the defendant No.1 in favour of defendant No.2 malafidely and execution of Agreement to Licence on the basis of fake sketch/site plan which is continuing day by day at Karachi within the jurisdiction of this Honourable Court.”

22. Learned Counsel for the plaintiff argued that each case has to be decided on its own facts and the facts of the present matter were clearly distinguishable from the long line of successive authorities, the latest of which is the *LANDMARK ASSOCIATES CASE* (supra) and thus this Court had due jurisdiction to entertain and adjudicate the subject suit.

23. It may be appropriate to address each of the issues raised by the learned Counsel for the plaintiff in seriatim;

- i. The plaintiff’s contention that the dispute pertains exclusively to the agreements conferring rights in the Subject Land is dispelled by a perusal of the prayer clause. A review of the prayer clauses clearly shows that the dispute is about land and that the issue of documentation is purely ancillary thereto. The *LANDMARK ASSOCIATES CASE* has clearly and successively distilled the law pertaining to the territorial jurisdiction of this Court and it is manifest that on the basis of the binding ratio of successive judgments of the superior Courts, that a dispute pertaining to the title of land situated outside the territorial jurisdiction of the districts of Karachi, cannot be entertained or adjudicated by this Court.

- ii. It has been contended that since the documents, pursuant to which the plaintiff and the defendant No.2 claim conflicting rights in property, were executed at Karachi and it is alleged that the collusive illegality of the defendants was perpetrated upon the plaintiff at Karachi, hence this Court is rightly seized of the matter. This contention finds no favour with the Court since the issue of documentation, real or fictitious, is a corollary to the Subject Land, which is outside the territorial jurisdiction of this Court and hence beyond the powers of adjudication of this Court.
- iii. The plaintiff had articulated a cogent argument that the dispute could be ring fenced and defined as that pertaining to juxtaposition of the conflicting plot numbers on the site plan/sketches of the defendant No.1.

The Counsel expounded upon this argument and stated that since it is this juxtaposition that is sought to be voided in the present case, and the same is alleged to have occurred in Karachi, hence this Court would in the least have concurrent jurisdiction to entertain the matter.

A question was put to the Counsel for the plaintiff, asking whether the alleged juxtaposition pertained to any land, which was or is situated within the territorial jurisdiction of the districts of Karachi. The learned Counsel for the plaintiff unequivocally answered that question in the negative.

Therefore, it is the opinion of this Court that any alleged juxtaposition pertains to land, which is clearly situated beyond the pale of this Court's territorial jurisdiction.

- iv. The plaintiff's reliance upon the case of *HAJI ABDUL MALIK & 10 OTHERS V. MUHAMMAD ANWAR KHAN & 26 OTHERS*, reported as 2003 SCMR 990, lends no credence to its case. The judgment clearly states that "*In the nutshell, if a suit involves dispute relating to the rights in the immovable property, such suit will be maintainable at the place where property is situated and if the relief does not relate to the rights and interest in the property and is confined only to the extent of an ancillary matter, can be filed at the place where the cause of action wholly or partly arose.*" The present case clearly falls within the category of a dispute relating to the rights in an immovable property and hence could only be maintained at the place where the said property is situated.
- v. The plaintiff's reliance upon a Divisional Bench judgment of this Honourable Court in the case of *ITEHAD CARGO SERVICES, NATIONAL HOTEL, LAHORE & 02 OTHERS V. RANA RAFAQAT ALI & 03 OTHERS* reported as PLD 2002 Karachi 420, also does him no benefit. The said judgment pertained to a contractual dispute between the parties and was not a dispute predicated upon an immovable property. Hence it is the opinion of this Court that the cited judgment is distinguishable in the present case.
- vi. The plaintiff's reliance upon a judgment of this Honourable Court in the case of *M/S. POPULAR PHARMACY, KARACHI V. M/S. NOVA BIO MEDICAL & OTHERS*, reported as PLD 1996 Karachi 411, does not promote its cause. The said judgment pertained to the consequences of termination of a sole distribution agreement and not to rights in any immovable property. Hence it is the Court's opinion is that the cited judgment is also distinguishable to that of the present case.

- vii. The plaintiff's reliance upon a Divisional Bench judgment of this Honourable Court in the case of MESSRS SH. MUHAMMAD AMIN & CO. V. THE PROVINCIAL INDUSTRIAL DEVELOPMENT CORPORATION, reported as 1991 CLC 684, also accrues no benefit to the plaintiff. The said judgment also pertained to a contractual dispute between the parties and hence the opinion of this Court is that the cited judgment is distinguishable in the present case.
- viii. Finally, adverting to the argument of the plaintiff that the cause of action pleaded in the plaint would show that this Court does have jurisdiction to adjudicate the subject matter, it may be pertinent to reproduce the contents of the said paragraph herein below:-

“21. That cause of action arose to the plaintiff in the month of December, 2017 when the representative of the plaintiff observed dubious visits of unknown persons to the subject property and the Defendant No.2 published public notice regarding sale of Plot No.A-474 and later on when the plaintiff obtained the copies of documents he was shocked to see the removal of subject property from the site plan and preparation of fake, fraudulent site plan by the defendant No.1 in favour of defendant No.2 malafidely and execution of Agreement to Licence on the basis of fake sketch/site plan which is continuing day by day at Karachi within the jurisdiction of this Honourable Court.”

It is apparent that the entire controversy pertains to the Subject Land, which is admittedly situated outside the territorial limits of the districts of Karachi. It is the Court's opinion that a perusal of the cause of action, as pleaded in the plaint, would give sufficient cause to come to the conclusion that the subject suit has been preferred before the wrong forum.

24. In the case of *MUHAMMAD NAVEED ASLAM & 03 OTHERS VERSUS MST.AISHA SIDDIQUI AND 02 OTHERS*, reported as *PLD 2010 Karachi 261*, it has been held as follows:-

“the only conclusion that can be drawn is that whenever any suit is filed in this High Court and is found that it does not relate to any of the Districts of Karachi then irrespective of the fact that it is valued at more than three million rupees the same has to be returned back to the plaintiff for its presentation before a Court of appropriate jurisdiction under Order VII rule 10 of the Civil Procedure Code. It is not section 120 of the Civil Procedure Code but section 7 of the Civil Courts Ordinance 1962 which confers original civil jurisdiction on this High Court and this jurisdiction being a special jurisdiction conferred under section 7 of the Sindh Civil Courts, 1962 Ordinance is limited for the matters that emanate from the territorial limits of the Districts of Karachi. Except for the Districts of Karachi no other territory falls under the original civil jurisdiction of this High Court.”

25. The aforesaid judgment was upheld by a Divisional Bench of this Court in the case of *MUHAMMAD NAVEED ASLAM AND 03 OTHERS VERSUS MST.AISHA SIDDIQUI AND 14 OTHERS*, reported as *2011 CLC 1176*. It was stated therein as follows:-

“the provisions of Order VII Rule 10 are mandatory in nature and adjudication by a court without jurisdiction is Coram non-judice and when any court lacks pecuniary or territorial jurisdiction, the proper course is to return the plaint for presentation to the proper court and such courts cannot pass any judicial order except that of returning the plaint.”

26. In view of the foregoing and with the specific reference to the binding ratio of the judgments referred supra, this Court has reached the conclusion that it has no territorial jurisdiction to entertain or adjudicate this suit as the property, the subject matter of the suit, is situated squarely outside the territorial jurisdiction of this Court.

27. Therefore, in exercise of the powers conferred by the mandatory provisions of Order VII Rule 10 of CPC, the plaint in the subject suit is hereby ordered to be returned to the plaintiff for its presentation before the Court of appropriate jurisdiction, after retaining copies for the record.

JUDGE

Shahid