

# IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 333 of 2012  
M/s. FGBC Limited & Another  
vs.  
Director General Mines and Minerals Development & Others

Suit No. 675 of 2014  
M/s. Fateh Textile Mills & Others  
vs.  
Government of Sindh & Others

For the Plaintiffs: Mr. Muhammad Saleem Mangrio,  
Advocate for Plaintiff No.2 in Suit  
No.333/2012 and for the Plaintiffs  
in Suit No.675/2014.

For Defendants: Mr. Omer Pechuho, Advocate,  
holding brief for Mr. Anwar  
Mansoor Khan, Advocate for the  
Defendants Nos.1 to 4 and 6.

For the Province of Sindh: Malik Naeem Iqbal, Additional  
Advocate General, Sindh.

Date of Hearing: 12.06.2018

## **JUDGMENT**

**Agha Faisal, J:** The issue to be determined by this Court is whether the present suits are maintainable before this Court, in view of the admitted fact that the land, subject matter in both suits, is situated outside the territorial remit of the districts of Karachi.

2. The two suits were instituted for declaration and permanent injunction in respect of land, being 8,626 acres in compact block of Lakhra Coal Field, District Jamshoro (“**Land**”). In Suit No. 333 of 2012 (“**Suit 1**”) the Plaintiffs sought to assert their rights in the Land and also *inter alia* sought a restraint

from being dispossessed therefrom. Suit No. 675 of 2014 (“**Suit 2**”) was filed in respect of the Land and the Plaintiffs sought a declaration of title / rights with respect thereof. Plaintiff No. 2 in Suit 1 and Plaintiff No. 1 in Suit 2 are the same body corporate and it is this legal entity whose leasehold rights to the Land are the primary issue in both suits.

3. A joint hearing in the two suits was conducted on 12.06.2018 to determine the maintainability thereof. Learned counsel for the respective parties, in Suit 1 and Suit 2, addressed the Court at considerable length upon the issue of territorial jurisdiction and after recording their submissions both suits were reserved for a common order / judgment upon the issue of maintainability.

4. Mr. Muhammad Saleem Mangrio, learned counsel for the Plaintiff No.2 in Suit 1 and for all the Plaintiffs in Suit 2, submitted that the present suits were maintainable and the submissions made by the learned counsel in such regard are encapsulated herein below:

- i. Per learned counsel in view of Section 120 CPC, Sections 16, 17 and 20 are not applicable to the High Court in exercise of its original civil jurisdiction and hence the issue of territorial jurisdiction is irrelevant.
- ii. It was submitted that the offices of the Defendants No.1, 2, 3, 4, 5 and 9 were situated in Karachi, hence, this Court had jurisdiction to entertain and proceed with these matters.
- iii. It was demonstrated from the memorandum of plaint filed by the Plaintiffs in respective suits that the causes of action were pleaded to have occurred in Karachi and hence the same would entitle the Plaintiffs to proceed with the two suits in Karachi.

- iv. It was submitted that the Suit 1 was initially filed before the Court of the learned Senior Civil Judge, Karachi South and in respect thereof the plaint had been returned to the Plaintiffs for presentation before appropriate Court on the basis of pecuniary jurisdiction. It was contended that since the plaint was not returned on account of any infirmity of territorial jurisdiction, therefore, the same issue may not be determined at this juncture.
- v. It was demonstrated that the Defendants had filed their respective written statements in the suits and it was argued that the same amounted to acceptance of the jurisdiction of this Court. Therefore, it was stated that the Defendants are no longer entitled to raise any objection in such regard.
- vi. It was contended that no application under Order VII, Rule 10, CPC was pending in the suits and therefore, the determination of whether or not the plaint should be returned was not a competent issue before this Court.
- vii. It was demonstrated that acceptance of offer dated 14.10.2005, in respect of Land, took place at Karachi and was addressed at Karachi as well. The notification in respect of the Land dated 14.12.2005 was also stated to have been issued in Karachi. The show cause notice dated 15.03.2010 was stated to have been issued and served at Karachi. The reply to the show cause notice was stated to be addressed to the recipients in Karachi. The notice of cancellation dated 24.05.2010 was issued at Karachi, therefore, it was argued that this Court did in fact have territorial jurisdiction to entertain these suits.

- viii. It was contended that the rights in Land under deliberation are 30 year leasehold rights and not 99 year leasehold rights. Learned counsel sought to create a distinction between two tenures and submitted that an abridged tenure would disentitle the Court at Jamshoro to have domain over a dispute arising in respect of such land. It was contended since there was no perpetual transfer of rights and only a limited period was granted in respect of the Land, therefore, the issue of territorial jurisdiction did not apply.
- ix. Learned counsel submitted that this Court was competent to entertain, maintain and proceed with the subject suits and hence an order affirming the maintainability hereof may be rendered. Reliance was placed by the learned counsel on the case of *Habib Bank Limited and Another vs. Haji Riaz Ahmed and Another*, reported as 2017 CLC 1671 (“**HBL**”).

5. In response to the aforesaid submissions, the learned Additional Advocate General submitted that the present suits were *prima facie* not maintainable as this Court was not seized with the territorial jurisdiction to adjudicate the matters in issue therein. The contentions of the learned counsel in such regard are summarized in brief herein below:

- i. It was submitted that there is no requirement for a party to the proceeding to challenge the maintainability and on the contrary it is a primary duty of the Court to determine whether it has the requisite jurisdiction to proceed with the matter. Learned counsel demonstrated from the record that the issue of jurisdiction was raised in the respective suits several times, and once instance in such regard was recorded vide order dated 15-05-2014.

- ii. It was submitted that the fact that the Land is situated in district Jamshoro is admitted by all the parties. Therefore, this Court cannot exercise jurisdiction in a dispute in respect of land which was admittedly situated outside the boundaries of the districts of Karachi.
- iii. Per learned counsel the distinction being made by the learned counsel for the Plaintiffs in respect of different tenures of leases and varying uses for which the lease was granted was not tenable in view of Section 16(d) of the CPC which reads as follows:

“16. Suits to be instituted where subject matter situate. Subject to the pecuniary or other limitation prescribed by any law, suits-  
 .....  
 (d) for the determination of any other right to or interest in immovable property  
 .....  
 Shall be instituted in the Court within the local limits of whose jurisdiction the property is situate...”

- iv. Learned counsel placed reliance upon the judgments in the cases of *Muhammad Bachal vs. Province of Sindh through Home Secretary and 12 others* reported as 2011 CLC 1450 (“**Bachal**”), *Muhammad Naveed Aslam and 3 others vs. Mst. Aisha Siddiqui and 2 others* reported as PLD 2010 Karachi 261 (“**Naveed Aslam**”) and a Judgment of this Court dated 09-01-2018 in the case of *Messrs. Land Mark Associates vs. Sindh Industrial Trading Estate Limited and Another* in Suit No. 247 of 2008 (“**Landmark**”).

6. This Court has heard the arguments of the learned counsel and has endeavored to review the record available. It is first and foremost for this Court to consider whether it is vested with the territorial jurisdiction to proceed with the subject suits.

7. The primary prayer clause in Suit 2 seeks the following relief:

“To declare that the plaintiff is a lessee of thirty years w.e.f. 14/12/2005 to 13/12/2035 in respect of Lakhra Coal Field, District Jamshoro by the defendants after completing all the formalities”.

8. The principal constituent of the prayer clause in Suit 1 inter alia seeks a declaration of rights in respect of the same Land and also seeks orders restraining the dispossession of the Plaintiff from the Land and further seeks a restraint upon any further alienation of the Land.

9. It is manifest from the foregoing the crux of the dispute in each of the suits is leasehold rights in the Land and it is also manifest that the said Land is located outside Karachi.

10. The basic contention of the learned counsel for the Plaintiffs was that Sections 16, 17 and 20 of the CPC were inapplicable in the present case in view of Section 120 of the CPC. The issue of the application of Section 120 CPC was addressed in *Naveed Aslam* and the Court maintained as follows:

“13. A bare reading of Section 120 of Civil Procedure Code show that firstly it makes sections 16, 17 and 20 of Civil Procedure Code inapplicable for the High Court in exercise of its original civil jurisdiction. The need to make sections 16, 17 and 20 of CPC inapplicable to a High Court arose because the jurisdiction of Civil Courts under sections 16, 17 and 20 CPC and the original civil jurisdiction of the High Courts under the then Letters Patent determine separate places where a civil suit and proceedings could be filed. Section 120 of C.P.C. was enacted to settle the conflict of sections 16, 17 and 20 of C.P.C. with the laws that conferred original civil jurisdiction on the High Courts and to obviate any confusion as regards place of suing. This can be understood through an example. Ordinarily a suit relating to a dispute of immovable property situated in Saddar, Karachi is to be brought in the Civil Court, which under the provisions of sections 16 and 17 of Civil Procedure Code has jurisdiction to try such suit. As the area of Saddar in Karachi falls within the limits of Police Station, Saddar which is in District East, Karachi, therefore the Civil Court which can try suits of area falling in Police Station Saddar becomes the place where such a suit is to be filed when sections 16 and 17 of the Civil Procedure Code are applied. However, if the same suit is of a value, which is more than three million rupees then by virtue of section 7 of Sindh Civil Courts Ordinance, 1962 the place of suing shifts to the Original Side of this High Court. In order to overcome this overlapping of jurisdictions, provisions of sections 16 and 17 of C.P.C. were made inapplicable under section 120 of C.P.C. so that these provisions may not come in the way of

filing a civil suit or proceedings on the Original Side of this Court. Therefore, while entertaining a suit relating to immovable property emanating from the area of Saddar in Karachi having a value of more than three million rupees, the place of suing as determined under sections 16 and 17 of the C.P.C. becomes immaterial and is not to be considered as under section 7 of the Sindh Civil Court Ordinance 1962, the Original Side of this High Court becomes the place of suing. Section 120 of C.P.C. can be interpreted only in this manner and not in a manner that any suit of more than three million rupees in value, coming from any part of the territorial jurisdiction of this Court viz. the entire Province of Sindh can be entertained on the Original Side of this Court. ' If the interpretation as given to section 120 of C.P.C. by the learned counsel for the plaintiff is accepted then every suit of a value above three million rupees relating to any part of Sindh has to be entertained on the Original Side of this Court. Such an interpretation would defeat the very purpose that created original civil jurisdiction in this High Court for the Districts of Karachi. While interpreting section 120 of C.P.C., the meaning of the words "in the exercise of its original civil jurisdiction appearing in that section should not be lost sight of which clearly mean that place of suing is not to be determined by sections 16, 17 and 20 but by the provision which confer original civil jurisdiction on this High Court. Now original civil jurisdiction is conferred on this Court under section 7 of the Civil Courts Ordinance, 1962 which is limited only for the territorial limits of Karachi. No other territory of this High Court comes within the ambit of the original civil jurisdiction prescribed under section 7 of the 1962 Ordinance. Therefore, if a suit does not fall within the ambit of original civil jurisdiction of this High Court then certainly the place of suing for such a suit is to be determined under sections 16 to 20 of Civil Procedure Code. What is actually meant by inapplicability of sections 16, 17 and 20 of C.P.C. to High Court under section 120 of C.P.C. is that High Court shall not apply these provisions to a suit if it comes under the ambit of section 7 of 1962 Ordinance i.e. sections 16, 17 and 20 of Civil Procedure Code shall not apply if a suit pertains to any part of the four Districts of Karachi and is valued at more than three million rupees. On the other hand, if a suit is filed in this Court which does not fall within the original civil jurisdiction of this Court i.e. it does not pertain to a dispute relating to any of the four Districts of Karachi or in not of a prescribed value then certainly the provisions of sections 16, 17 and 20 shall be attracted and the plaint shall be returned for its presentation to a Court of appropriate jurisdiction. Section 120 of Civil Procedure Code therefore only renders ineffective provisions of sections 16, 17 and 20 of C.P.C. to suits that can be entertained by this High Court in exercise of its original civil jurisdiction which is confined to civil suits and proceedings pertaining to the Districts of Karachi only and not for any other area falling within the jurisdiction of this High Court."

11. *Naveed Aslam* went on to enunciate the law in the following terms:

"From the above discussion, 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.”

12. In a subsequent decision in the case of *Bachal* the learned Single Judge of this Court expounded further upon the issue of the territorial boundaries of the original civil jurisdiction and held as follows:

“16. The powers conferred under Order VII, Rule 10 can only be exercised where the suit is pending before the Court and it may be exercised at any stage of the suit even in appeal and or revision. The bare look of the plaint in this case undisputedly shows that the plaintiff instituted the suit for the determination of the right to or interest in the immovable property and for compensation for wrong to immovable property and recovery of movable property. The relief claimed in the suit and its nature falls within the purview of section 16 of C.P.C. which provides that such kind of suits shall be instituted in the court within the limits of whose jurisdiction the property is situated. Though section 120, C.P.C. provides that sections 16, 17 and 20 shall not apply to High Court in exercise of its original civil jurisdiction but it does not mean that by virtue of this section the jurisdiction of original side of this court extended to all territories of Province of Sindh no matter the property in question is situated at Karachi or not. The jurisdiction of this Court at original side is only limited and confined to the Districts of Karachi and if the arguments of the learned counsel for the plaintiff is accepted to be true, it will tantamount to the extension of original side jurisdiction of this court to the entire Province of Sindh subject to its pecuniary limits of jurisdiction.

17. The non-applicability of sections 16, 17 and 20 read with Order XLIX, Rule 3 is only applicable and limited to the original side jurisdiction for the Districts of Karachi and when it is found that the property is situated outside the territorial jurisdiction of Karachi then sections 16 and 17 will automatically come into operation. The initial guiding principles for institution of various suits is provided under sections 16 to 19, C.P.C. whereafter section 20 has been provided for other suits to be instituted where the defendant resides or cause of action arises. In the present matter section 16 is applicable therefore, the suit should have instituted where the property is situated and since the 'claim of damages is not an independent relief but arising from the alleged wrong done committed by the defendants in the suit, therefore, this relief can also be easily claimed in the same suit along with other reliefs. The honourable Full Bench of this court in case "Rimpa Sunbeam Cooperative Housing Society Ltd. v. Karachi



Metropolitan Corporation reported PLD 2006 Karachi 444 already held that jurisdiction of Sindh High Court to entertain suits is basically neither the ordinary nor the extraordinary original civil jurisdiction of the High Court but simply a District Court jurisdiction, the jurisdiction of Sindh High Court to try Civil Suits is confined to matters where the pecuniary value of the subject-matter exceeds Rs.30,00,000/-. All other suits are liable to be tried by the District Courts. In another judgment reported in 2005 MLD 1506 in the case of (Murlidhar P. Gangwani v. Engineer Aftab Islam Agha), the learned Divisional Bench held that territorial jurisdiction of the Court cannot be extended or curtailed on compassionate grounds or looking to the financial position of a party and the expenses which he might have to incur in pursuing the litigation before the proper Court having jurisdiction in the matter. Further, the question of maintainability of a suit with reference to the territorial jurisdiction, vis-a-vis cause of action accrued to a party for institution of such suit, is to be judged on the basis of averments made in the plaint.”

13. Therefore, *Naveed Aslam* and subsequently *Bachal* clearly dispel the interpretation advanced by the plaintiffs with respect to Section 120 of the CPC. The said judgments also made it categorical that powers under Order VII rule 10 CPC could be exercised at any stage in a suit.

14. The judgment in the recent case of *Landmark* is a comprehensive treatise on the issue of territorial jurisdiction of the original civil side of this Court and the honorable author Judge undertook an extensive appraisal of the development of the law in such regard in chronological order. The conclusion arrived at in *Landmark* is reproduced herein below:

“24. From appraisal of law which conferred jurisdiction in civil cases on this Court it appears that firstly it was under section 8 of the Sindh Courts Act, 1926, and thereafter, under Article 5 of High Court of West Pakistan Establishment Order, 1955. This came for scrutiny before Wahiuddin. J, *Firdous Trading Corporation* (Supra), and view taken therein stands approved by the Hon’ble Supreme Court in *Haji Razzaq* (Supra). The enactments as above clearly provided that Bench of the High Court at Karachi shall have original civil jurisdiction for the civil district of Karachi, and it has been interpreted and held that such jurisdiction was never an original civil jurisdiction but a jurisdiction of District Court being exercised by the High Court. As against this the present jurisdiction being exercised by this Court on the original side is derived from Section 7 of the Civil Courts Ordinance, 1962, which in fact restricts or lowers such jurisdiction in plain words to that of a District Court jurisdiction without any further ambiguity (if there was any, under the earlier enactments i.e., 1926 Act, and High Court of West Pakistan Establishment Order, 1955), in respect of cases having value

exceeding Rs.15 Million. In no manner this can now, at least, be construed as “*original civil jurisdiction*” or “*extraordinary civil jurisdiction*” as referred to either in Section 120 CPC or Order 49 Rule 3(1) CPC; or for that matter under the letters patent or any other independent enactments as was the case in the Sub-Continent in pre-partition days.

Therefore in view of the discussion hereinabove, I have come to a conclusion that; firstly this is not a case which could be referred to the Hon’ble Chief Justice for constitution of a larger bench as contended on behalf of the plaintiff, as according to me the judgments reported as *Naveed Aslam A & B*, are not per incuriam as vehemently contested; secondly, per settled law this Court has no territorial jurisdiction in this matter as the property is situated outside the territorial jurisdiction of this Court; and ;thirdly, the provisions of section 120 and Order 49 Rule 3(1) do not in any manner curtail or restrict the jurisdiction and powers of this Court. Accordingly the plaint in this matter is hereby ordered to be returned to the plaintiff for its presentation before the Court having jurisdiction after retaining copies for record.

25. Plaint is ordered to be returned.”

15. The ratio of *Landmark* was relied upon and applied in a subsequent judgment, rendered by the undersigned in the case of *M/s. Deluxe Interiors vs. The Sindh Industrial Trading Estates (SITE) Limited and Another*, reported as *SBLR 2018 Sindh 1310*.

16. The Division Bench of this Court has cemented the pronouncements of the learned Single Bench in regard hereof and a leading pronouncement in respect thereof is the case of *Muhammad Naveed Aslam & 3 Others vs. Mst. Aisha Siddiqui & 14 Others*, reported as *2011 CLC 1176* (“***Naveed Aslam II***”). This judgment was in proceedings wherein *Naveed Aslam* had been assailed. The Division Bench upheld the decision in *Naveed Aslam* and recorded as follows:

“31. According to our understanding of law, 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 court cannot pass any judicial order except that of returning the plaint. The powers conferred under Rule 10 can only be exercised where the suit is pending before the Court and it may be exercised at any stage of the suit even in appeal and or revision. The bare look of the plaint in this

case undisputedly shows that the plaintiff instituted the suit for the determination of the right to or interest in the immovable property and for compensation for wrong to immovable property and the recovery of movable property. The relief claimed in the suit and its nature falls within the purview of section 16 of C.P.C. which provides that such kind of suits shall be instituted in the court within the limits of whose jurisdiction the property is situated. Though section 120, C.P.C. provides that sections 16, 17 and 20 shall not apply to High Court in exercise of its original civil jurisdiction but it does not mean that by virtue of this section the jurisdiction of original side of this court extended to all territories of Province of Sindh no matter the property in question is situated at Karachi or not. The jurisdiction of this Court at original side is only limited and confined to the districts of Karachi and if the arguments of the learned counsel for the appellants are accepted to be true, it will tantamount to the extension of original side jurisdiction of this Court to the entire Province of Sindh subject to its pecuniary limits of jurisdiction. Merely for the reason that respondent No.13 on the application of respondent No.1 instead of hearing the case at Hyderabad, heard the Case No.SROA.122 of 2000 at Karachi and passed the order dated 14-2-2008 at Karachi does not confer the territorial jurisdiction to this court on original side.

32. The non-applicability of sections 16, 17 and 20 read with Order XLIX, Rule 3 is only applicable and limited to the original side jurisdiction for the district of Karachi and when it is found that the property is situated outside the territorial jurisdiction of Karachi then sections 16 and 17 will automatically come into operation. The initial guiding principles for institution of various suits is provided under sections 16 to 19, C.P.C. whereafter section 20 has been provided for other suits to be instituted where the defendant resides or cause of action arises. In the present matter section 16 is applicable therefore, the suit should have instituted in Thana Bola Khan where the property is situated and since the claim of damages is not an independent relief but arising from the alleged wrong done committed by the defendants in the suit, therefore, this relief can also be easily claimed in the same suit at Thana Bola Khan along with other reliefs including the declaration as to the ownership, permanent and mandatory injunction. The honourable Full Bench of this court in case "Rimpa Sunbeam Co-operative Housing Society Ltd. v. Karachi Metropolitan Corporation" reported PLD 2006 Karachi 444 already held that Jurisdiction of Sindh Court to entertain suits is basically neither the ordinary nor the extraordinary original civil jurisdiction, of the High Court but simply a District Court jurisdiction, the jurisdiction of Sindh High Court to try Civil suits is confined to matters where the pecuniary value of the subject-matter exceeds Rs.30,00,000. All other suits are liable to be tried by the District Courts. In another judgment reported in 2005 MLD 1506 in the case of (Murlidhar P. Gangwani v. Engineer Aftab Islam Agha), the learned Division Bench held that territorial jurisdiction of the Court could not be extended or curtailed on compassionate grounds or looking to the financial position of a party and the expenses which he might have to incur in pursuing the litigation before the proper Court having jurisdiction in the matter. Further, the question of

maintainability of a suit with reference to the territorial jurisdiction, vis-à-vis cause of action accrued to a party for institution of such suit, is to be judged on the basis of averments made in the plaint.”

**17.** There is a recent unreported decision of a Division Bench of this Court, dated 17.08.2017 in HCA No. 13 of 2014, in the case of *Mrs. Shamshad Begum & Another vs. Syed Iftikhar Hussain Jafari & Others*, wherein it has been held as follows:

“10. In the present case, from the perusal of record, it appears that appellants/plaintiffs filed suit for declarations that they are the owners of the Suit lands; the declaration of oral gift in respect of the Suit lands by their predecessor-in-interest in favour of respondent No. 1, is forged, fabricated, bogus and of no legal effect; and, the sale of the Suit lands by respondent No. 1 in favour of respondent No. 2 is illegal, void and of no legal consequences. The appellants/plaintiffs have also sought cancellation of the aforesaid sale deed in favour of respondent No. 2, besides possession of the Suit lands, mesne profit, damages and permanent injunction. From the above discussion, it is clear that the appellants/plaintiffs instituted the suit for the determination of the right or interest in the immovable property and for compensation for wrong to immovable property and the recovery of movable property. The relief claimed in the suit and its nature falls within the purview of Section 16 of CPC, which provides that such kind of suits shall be instituted in the court within the limits of whose jurisdiction the property is situated. In the present case all the reliefs relate to immovable property situated at Sujawal and Jati District Thatta, i.e. beyond territorial jurisdiction of ‘Karachi’. Thus, keeping in view the above provision and ratio decidendi settled in the aforementioned decisions, the suit should have been instituted where the property is situated and all the reliefs can also be easily claimed in the same suit along with other reliefs including the declaration as to ownership, permanent injunction and possession.”

**18.** The learned counsel for the Plaintiffs had argued that since some documentation, ancillary to the issue of rights in the Land, was executed at Karachi and / or addressed to recipients at Karachi, hence, the Courts at Karachi had jurisdiction to entertain the present suits. This argument is not tenable in view of the findings of the honorable Supreme Court in the case of *Haji Abdul Malik & 10 Others vs. Muhammad Anwar Khan & 26 Others* reported as 2003 SCMR 990, wherein it was maintained that if a suit involves a dispute relating to rights in an immovable property, such a suit shall be maintainable at the place where the 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, then such proceedings can be instituted at the place where the cause of action wholly or partly arose. It is apparent that the issues in Suit 1 and Suit 2 clearly fall within the category of a dispute relating to the rights in an immovable property and hence the two suits could only be maintained at the place where the suit property is situated.

**19.** The judgment in the case of *HBL* does no merit to the case of the Plaintiffs and the same is distinguishable upon the facts and circumstances of this case. The said judgment pertained to a suit for recovery of money arising out of a banking relationship and was not a dispute predicated upon an immovable property located outside the territorial remit of the Court seized of the lis.

**20.** In view of the foregoing it is the considered view of this Court, augmented by the ratio of the authorities cited supra, that this Court does not possess the territorial jurisdiction to entertain, maintain and / or proceed with the suits, being Suit 1 and Suit 2 respectively.

**21.** Therefore, in exercise of the powers conferred by the mandatory provisions of Order VII Rule 10 of CPC, the plaints in Suit 1 and Suit 2 are hereby ordered to be returned to the Plaintiffs, after retaining copies for the record.

JUDGE

Announced by:

JUDGE

Karachi

Dated: 21.06.2018