

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
Suit 1131 of 2016

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Order with signature of Judge

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1. For orders on Nazir report dated 06.01.2020.
2. For hearing of CMA 9210 of 2016
3. For hearing of CMA 9211 of 2016
4. For hearing of CMA 15596 of 2019

12.03.2020

Mr. Muneer Ahmed, Advocate for the plaintiff.  
Mr. Abdul Rahman, Advocate for the defendant.

**Agha Faisal, J.** This is a suit for specific performance in respect of a purported agreement for sale of immovable property. The suit was instituted on 09.05.2016, however, the balance sale consideration, pursuant to the agreement under consideration, has admittedly not been deposited till date.

Learned counsel for the defendant refers to the judgment of the honorable Supreme Court in the *Hamood Mehmood case*<sup>1</sup> and draws attention to the following observation:

“3. It is mandatory for the person whether plaintiff or defendant who seeks enforcement of the agreement under the Specific Relief Act 1877, that on first appearance before the Court or on the date of institution of the suit, it shall apply to the Court getting permission to deposit the balance amount and any contumacious/omission in this regard would entail in dismissal of the suit or decretal of the suit, if it is filed by the other side.”

Learned counsel for the defendant submits that the requisite deposit has not been made in this suit, since its inception, despite the specific order dated 04.12.2019, wherein the plaintiff was directed to deposit the balance sale consideration. It is noted that this matter has come up for hearing on two successive dates, post 04.12.2019, and no statement in compliance of the aforesaid order has been filed.

Today, learned counsel for the plaintiff is present and admits that the order dated 04.12.2019 has not been complied with and that the mandatory requirement for deposit of the balance sale consideration, per the *Hamood Mehmood case*, remains unsatisfied.

The honorable Supreme Court has enunciated the legal position in the *Hamood Mehmood case* and has also observed that no exception can be taken in such regard. In due compliance with the directives of the honorable Supreme Court this suit, along with pending application/s, is hereby dismissed.

JUDGE

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<sup>1</sup> Per *Dost Muhammad Khan J.* in *Hamood Mehmood vs. Mst. Shabana Ishaque & Others* reported as 2017 SCMR 2022.