

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Suit 704 of 2020

Order with signature of Judge

For hearing of CMA 5140 of 2020

28.07.2020

Mr. Muhammad Arshad Langah, Advocate for the plaintiff.
Mr. Zia Ahmed Junejo, Additional Advocate General Sindh.
Defendant 1 present in person.

This is a suit for specific performance in respect of a purported agreement for sale of immovable property. The suit was instituted on 24.06.2020, however, the balance sale consideration, pursuant to the purported agreement under consideration, has admittedly not been deposited till date. Learned AAG refers to the judgment of the honorable Supreme Court in the *Hamood Mehmood case*¹ 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 AAG submits that the requisite deposit has not been made in this suit, since its inception, despite the specific order dated 16.07.2020, wherein the plaintiff was directed to deposit the balance sale consideration. Today, learned counsel for the plaintiff is present and admits that the order dated 16.07.2020 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.

J U D G E

Farooq PS/*

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