



Sub-Registrar Agricultural Land, Karachi-East, the father of the plaintiff gifted out the suit land in favour of plaintiff and; as such, such entry in the record of rights bearing No. 131 dated 30.03.2004 was recorded and thereafter through lease deed bearing registration No. 217 dated 10.08.2004 with Sub-Registrar Agricultural Land, Karachi-East, the plaintiff leased out an area of 21.10 Acres out of 36.00 acres to one Irfan s/o. Saleem Dawood, who latter on filed Suit No. 1286 of 2019 before this Court and got the registered deed cancelled vide judgment dated 31.10.2019 and remaining piece of land was leased out by the plaintiff to another person, namely, Furqan Ahmed s/o. Ahsan Ahmed, who is now deceased and his legal heirs have denied to have claim over said portion of the suit land; however, as per revenue record all the entries in the record of rights in respect of the suit land were cancelled by the revenue department vide order dated 19.05.2009 and the suit land has been retrieved to government. Learned counsel also contends that the NAB Karachi filed a Reference bearing No. 23/2017 before Accountability Court No.12, Sindh at Karachi wherein plaintiff is one of the accused and the Reference is still pending trial. He further contends that the plaintiff is a simple man and has no nexus with the commission of offence cited in the NAB Reference and under the circumstances registered gift deed and other documents registered on the strength of gift deed are required to be cancelled.

Under Section 39 of the Specific Relief Act, 1877 an instrument can be cancelled if the same is void and voidable against the plaintiff, if the instrument is left outstanding then the plaintiff might reasonably apprehend serious injury by the same.

In the instant suit, the plaintiff is infact beneficiary of alleged gift deed and he has not claimed that the alleged gift deed is void and voidable against him but it is case of the plaintiff, who is confined in judicial custody and is facing NAB Reference due to such fraudulent transaction, that actually the suit land belongs to one Javed Iqbal of M/s. Ghani Builders and Developers and his late father Abdul Jabbar was the Benamdar having no personal right and interest in the suit land. It is an admitted position that alleged Javed Iqbal has not approached any Court of law for claiming himself the beneficial owner of the suit land and seeking declaration that the plaintiff's father was Benamidar. The suit land has admittedly been retrieved to government vide order dated 19.05.2009 passed by the EDO (Revenue), CDGK by concealing the entries in record of rights in favour of plaintiff and his father and even said order has not been challenged by the said so called beneficial owner. There appears prima facie an attempt on behalf of the plaintiff to save himself from the criminal proceedings initiated by the NAB authorities under the aforesaid Reference. Hence, the suit is dismissed being not maintainable in law. alongwith listed application.

Athar Zai

JUDGE