

**IN THE HIGH COURT OF SINDH, KARACHI**

**IInd Appeal No.119 of 2018  
IInd Appeal No.121 of 2018**

Present: **Mr. Justice Nazar Akbar**

**1. IInd Appeal No.119 of 2018**

Appellant : Fateh Jang Khalid,  
Through Mr. Javed Haleem, Advocate

**Versus**

Respondent No.1 : Shagufta Parveen  
Respondent No.2 : Nusrat Parveen Khan  
Respondent No.3 : Muhammad Afzal Khan  
Respondent No.4 : Muhammad Ismail Khan  
Respondent No.5 : Ishrat Khan  
Respondent No.6 : Muhammad Ashraf Khan  
Respondent No.7 : Muhammad Mozzam Khan  
Respondent No.8 : Moureen Khan  
Respondent No.9 : Mrs. Shahzadi Begum  
Through Mr. Muhammad Abu Bakar Khalil, Advocate.

Respondent No.10 : City District Government, Karachi  
Respondent No.11 : The Director, Lines Area Re-  
Development Project, CDGK  
Respondent No.12 : Military Estate Officer  
Respondent No.13 : Federation of Pakistan

**2. IInd Appeal No.121 of 2018**

Appellant : Fateh Jang Khalid,  
Through Mr. Javed Haleem, Advocate

**Versus**

Respondent No.1 : Muhammad Anwar Khan Afridi  
(deceased) through his Legal Heirs  
Respondent No.2 : Syed Mukhtar Ali Zaidi  
Respondent No.3 : Muhammad Naseem  
Respondent No.4 : Mt. Firdous Bibi  
Through Mr. Muhammad Abu Bakar Khalil, Advocate.

Respondent No.5 : City District Government, Karachi  
Respondent No.6 : Military Estate Officer  
Respondent No.7 : Federation of Pakistan

Date of hearing : **17.01.2020**

Date of Decision : **03.02.2020**

## **JUDGMENT**

**NAZAR AKBAR J:-** By this common judgment I intend to dispose of two IInd Appeals bearing IInd Appeal Nos.119/2018 and 121/2018 both filed by appellant (Fateh Jung Khalid) arising out of a common judgment dated **28.8.2018** passed by the XIth Additional District Judge, East Karachi, whereby Civil Appeal Nos.128/2013 and Civil Appeal No.163/2017 both filed by the appellant against dismissal of his suit No.540/2006 by IIIrd Senior Civil Judge, East Karachi by judgment dated **13.3.2013** and decreed another suit No.816/2011 filed by the Respondents No.1 & 9 by XIIth Senior Civil Judge, East Karachi by judgment dated **26.4.2017**.

2. To be very precise, the facts of the case are that the appellant and Respondents have filed separate suits for declaration, possession, mesne profit and permanent injunction against each other in respect of residential plot bearing No.151, Sector 7, Scheme No.35, admeasuring 45 square yards, Gulshan-e-Zahoor, Near Lines Area, Police Station Brigade in Jamshed Town, Karachi (the suit property). The appellant had filed suit No.540/2006 with the following prayers:-

- a) *Declaration that the plaintiff is Licensee of the defendant No.6&7 pertaining to the suit property measuring 60 square yards approximately attached to the quarter No.F-2/10, Tunisa Line, Lines Area, Karachi East and the same is out of the jurisdiction of the defendant No.4.*
- b) *Declaration that the disputed property bearing House No.151, Sector-7, Scheme 35, Gulshan-e-Zahoor, Lines Area, Karachi measuring 45 square yards has different and separates identity & location having different nexus/area to the suit property.*
- c) *In case this Hon'ble Court comes to the conclusion that both the properties are the same, then the cancellation of all title documents including Lease Deed having registered at No.2814 dated*

*01.11.2004, being illegal, unlawful, malafide, collusive and without jurisdiction having no legal effects in eyes of law.*

- d) Recovery of Damages of Rs.200,000/- from the defendant No.1 with interest at the bank rate till the realization of the decretal amount.*
- e) Permanent injunction restraining the defendants their Servants, Executants, Agents, Administrators, Sub-Ordinates and any other person(s) acting on their behalf from dispossessing and removing the plaintiff from the suit property bearing Quarter No.F-2/10, Tunisa Lines, Karachi East except in due course of law.*
- f) Cost.*
- g) Any other relief deemed to be fit under the special circumstances of the case.*

3. Respondents No.1 to 9 in their suit bearing No.816/2011 had prayed for the following reliefs:-

- a. To declare that the plaintiffs are exclusive owners of the suit property bearing plot No.R-151, Sector 7, Scheme No.35 admeasuring 45 sq. yards, Gulshan-e-Zahoor near Lines Area, Karachi.*
- b. To declare the indenture of lease dated 19.8.2004 as valid document and binding on all the defendants.*
- c. To declare the defendant No.1 as encroacher unlawful possessor on the suit property bearing Plot No.R-151, Sector 7, Scheme 35 admeasuring 45 sq. yards, Gulshan-e-Zahoor near Lines Area and possession of the defendant No.1 on the suit property is illegal and unlawful.*
- d. To direct the defendant No.1 to hand over peaceful vacant possession of the suit property to the plaintiffs.*
- e. To grant mesne profit of Rs.3,000/- per month from August 2005 till the final disposal/realization of possession in favour of plaintiffs.*
- f. To declare all documents i.e letter of license of any authority letter in favour of the defendant No.1 issued by defendants No.4 or 5 as NULL & VOID and same may be cancelled with immediate effect.*
- g. To permanently restrain the defendants not to create any third party interest upon the suit property.*

- h. Cost of the suit may also be granted.*
- i. Any other or further relief(s), which this Hon'ble Court deems fit may kindly be granted under the circumstances of the case.*

4. The trial Courts after framing issues, recording evidence and hearing learned counsel for the parties, dismissed suit No.540/2006 by judgment dated **13.3.2013** and decreed suit No.816/2011 filed by Respondents No.1 to 9 against the appellant by judgment dated **26.4.2017**. The appellant against the said judgments had filed separate Civil Appeals No.128/2013 and Civil Appeal No.163/2017 before the first appellate Court which were dismissed by a common judgment dated **28.08.2018** and the findings of the trial Court were maintained. The appellant has impugned concurrent findings of both the trial Court as well as the appellate Court through above two IInd Appeals.

5. I have heard learned counsel for the parties and perused the record as well as written arguments filed by the counsel for Respondents No.1 to 9.

6. Learned counsel for the appellant has not filed any written argument in any of the two appeals. However, he at the time of arguments when parties were heard at length has failed to refer to any documentary evidence of the very existence of the suit property as land under control of Military Estate Office Karachi for and on behalf of the Federation of Pakistan. Both the Courts below have dismissed the suit of the appellant on the basis of the valid title documents in favour of the respondents. The suit property was under the Control of CDGK and the record shows that CDGK has produced unimpeachable official record showing that the suit

property was lawfully owned by the respondents as against the claim of the appellant. The appellant has relied on the documents allegedly obtained by him from the Military Estate Office to impress upon the Court that he is a licensee in the suit property from its owner/custodian namely Military Estate Office. However, nobody was examined from the Military Estate Office to support the claim of the appellant. The appellant has not even called anyone as witness from the office of the MEO to corroborate the claim of the appellant that the said defendant has put the appellant in possession of the suit property as their licensee. In fact it was case of no evidence from the appellant to obtain a declaration and injunction in respect of the suit property as against the claim of the Respondents based on title documents from the CDGK and the officials of CDGK has fully support the claim of respondents not only in their written statement but even by producing evidence to this effect.

7. In view of the above, no case is made out for interference in the impugned orders passed by the trial and appellate Courts. These appeals stand dismissed.

JUDGE

Karachi,  
Dated:03.02.2020

Ayaz Gul