## ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI C.P. No.D-7697 of 2017

## Date Order with Signature(s) of Judge(s)

For order as to maintainability of instant petition.

## <u>23.11.2021</u>

Mr. Samiullah Shah, Advocate for Petitioner. Mr. Nadeem Memon, Advocate for respondents No.3&4. Mr. Chaudhry Arif, Advocate for respondents No.5&6. Mr. Dhani Bux Lashari, Advocate for SBCA a/w Suhail-Mukhtiarkar Jamshed Town. Mr. Miran Muhammad Shah, Addl. A.G.

Parawise comments files by the respondent No.8 are taken on record.

Through instant petition, the petitioner seeks directions to respondents No.1 and 2 to demolish the illegal construction raised adjacent and in front of H. No.92/7 on plot No.502/3, New Town Post Office, Khan Zaman Line Garden East, Patel Para, Karachi. It is alleged by the petitioner that one Khan Zaman was the owner of Plot No.502/3, which plot was inherited by the grandfather of the petitioner, namely, Muhammad Umer. It is case of the petitioner that private respondents No.3 and 4 are in illegal occupation of the land adjacent and in front of the petitioner's plot. Besides, they have raised construction on the land without any approved building plan from respondent No.1/SBCA.

As per the objections filed by private respondent No.3, she is relative of the petitioner and residing in Plot No.148 which is part of Plot No.504 and is in the name of her deceased husband and respondent No.4 is her tenant. The respondent No.3 has also annexed with her objections copy of record of Permanent Transfers of Property No.GRE-504 which shows that the said property is consisted of 3882 Sq. Yds. in the Garden East which is on the name of total 67 shareholders/co-onwers, out of them the name of Ali Zaman S/o Khan Zaman, the husband of respondent No.3, appears at Serial No.29 being owner of an area of 120 Sq. Yds.

It also reflects from the parawise comments filed by the respondent No.8/Mukhtiarkar-Jamshed Town that Plot bearing No.GRE-502/3 admeasuring 1000 Sq. Yds. held on Government H/3/1, was entered in the name of Muhammad Umer S/o Khan Zaman on 80 years lease commencing from 01.08.1915, which lease has expired in 1995. It further appears that adjacent to the said property G+1 newly constructed structure alongwith shops of the respondent No.3 is existing. As per the respondent No.8, in order to ascertain the claim of the petitioner the subject property is required to be demarcated.

We are; therefore, of the prima facie view that the respondent No.3 is not in illegal occupation of the adjacent land of the subject plot as she is holding her portion in property No.GRE-504 under a title on the name of her deceased husband as per record.

The petition is; therefore, dismissed alongwith pending application, if any, being devoid of merit leaving the petitioner at liberty to approach the concerned forum for demarcation, if so advised.

JUDGE

## JUDGE