

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
 SUIT NO. 856 /2002

DATE

ORDER WITH SIGNATURE OF JUDGE

- 1) For hearing of CMA No. 14218/2016.
- 2) For hearing of CMA No. 5014/2016.
- 3) For hearing of CMA No. 12281/2017.
- 4) For hearing of CMA No. 7379/2012.
- 5) For hearing of CMA No. 12470/2014.
- 6) For hearing of CMA No. 7341/2009.
- 7) For hearing of CMA No. 11370/2011.
- 8) For hearing of CMA No. 2580/2011.
- 9) For hearing of CMA No. 2395/2011.
- 10) For examination of parties / settlement of issues.

17.10.2017.

Mr. Muhammad Ali Jan Advocate for Plaintiff.

Defendant No. 1 present in person.

Mr. Naseem Akhtar Advocate for Defendants No. 7 & 8.

Mr. Muhammad Aslam Advocate for Defendant No. 9.

1. This is an application for recalling of Order dated 02.05.2016, whereby, Defendants No.2, 3, 7, 8 and 10 were declared ex-parte. Since this is a matter apparently between the brothers and sisters, whereas, Counsel for the Plaintiff does not object, if this application to the extent of Defendants No.7 & 8 is granted and they may be permitted to file written statement in this matter. Accordingly, by consent this application is allowed and the written statement filed by Defendants No.7 & 8 is taken on record.

2. Defendant No.1, present in person, does not press this application as it has already served its purpose. Accordingly the same is dismissed as not pressed.

3. This is an application under Section 151 CPC read with Section 96 Cr.P.C., wherein, it has been prayed to order directions for presence

of Honorary Secretary of P.I.B Cooperative Housing Society to produce the case files of original documents alongwith Relinquishment Deed etc. Defendant No.1 was confronted as to how in the given facts and circumstances, of this case such an application could be entertained. He has no answer to the query of the Court. He appears in person and was requested to engage a Counsel as these kind of applications require proper assistance on facts and law. However, he has not shown any response to such observation. Even otherwise, if any witness is to be called, an appropriate application can be made in terms of Order 16 C.P.C. as the Society is also a Defendant in this matter. Accordingly, this application is misconceived and is hereby dismissed.

4. Defendant No.1 present in person does not press this application, which is accordingly dismissed as not pressed.

5. This is an application under Order 12 Rule 6 CPC for passing of Judgment and Decree filed on behalf of Defendant No.1. On perusal of this application, it appears that the Defendant No.1 wants this Court to pass a Judgment and Decree in this matter on the basis of some application filed under Order 23 Rule 1 CPC by Plaintiff No.1 for withdrawing the Suit. It appears that though Plaintiff No.1 has withdrawn but Plaintiff No.2 is still contesting the claim and therefore merely on this basis no Judgment and Decree can be passed. Whereas, even otherwise, the scope of Order 12 Rule 6 CPC is in respect of admission in the clear and unequivocal terms, which is lacking in this case. Accordingly, this application is misconceived and is hereby dismissed.

6. Defendant No.1 present in Court submits that this application has become infructuous and he will not press the same. Accordingly, the same is dismissed as not pressed.

7. Adjourned.

8. Adjourned.

9. This is an application for initiating the proceedings under Section 476, 468, 420 Cr.P.C read with Section 151 CPC against various persons. Defendant No.1 was confronted as to how at this stage of the proceeding merely on the assertion of Defendant No.1 can any proceedings of such nature be initiated as prayed by him, to which he had no proper answer. It may be observed that there is no conclusive finding on the allegation of Defendant No.1 as well, therefore, this application besides being misconceived is premature. Accordingly, the same is hereby dismissed.

J U D G E

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