

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Suit No.1095 of 2013

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing of CMA Nos:-

1. 12189/13 (U/S 75 CPC)
2. 3414/14 (U/S 151 CPC.)
3. 5973/14 (U/O 39 Rule 1 & 2 CPC.)
4. 5974/14 (U/S 3 of Limitation)
5. 5975/14 (U/S 75)
6. 2358/15 (U/O 39 Rule 2(3) CPC.)

23.01.2017

Ms. Rizwana Ismail, Advocate for Plaintiff.
Mr. Muhammad Younis, Advocate for Defendants.
Mr. Iqbal Khurram, Advocate MDA.
Ms. Rukshanda Waheed, State Counsel.

1. This is an Application moved by one Fiaz Akhtar (Fayyaz Akhtar) under Section 75 read with Order 18 Rule 18 and Section 151 CPC for inspection of the property in question. On 14.03.2016, the application of this applicant under Order 1 Rule 10 CPC for impleading him as a party in this matter was dismissed, whereas, nobody is in attendance today on behalf of the applicant. In the circumstances, this application cannot be granted as the application for impleadment as a party stands dismissed. Accordingly, this application is also dismissed.

2. In view of the earlier order(s), passed by this Court, this Application has served its purpose, which is accordingly disposed of.

3&5. Both these applications have been filed by Defendant No.11 for restraining the Plaintiffs from interfering or disturbing the alleged lawful possession of Defendant No.11 and so also for inspection of his property. Learned Counsel for Defendant No.11 contends that he is a lawful tenant in respect of two acres of land granted to him by one Adnan Khan Hafeez, who acquired it from Fayyaz Akhtar through his

attorney Sohail Akhtar and certain amount has been spent in construction of the property in question. Counsel for the Plaintiff has opposed this application and submits that Defendant No.11 is a trespasser and has no title in the said property, which belongs to the Plaintiff and therefore these applications be dismissed.

I have heard both the learned Counsel and perused the record. Since admittedly, the application of Fayyaz Akhtar under Order 1 Rule 10 CPC stands dismissed from whom Adnan Hafeez Khan has purportedly derived title and through whom Defendant No.11 claims tenancy rights, therefore, apparently, listed applications cannot be granted in favour of Defendant No.11. The precise reason for dismissal of the interveners application was that the sale deed in favor of that applicant had already been set aside by this Court in an earlier Suit bearing No. 260/1986 which has attained finality. Even otherwise this Suit has been filed by the Plaintiffs for protection of his property rights and if Defendant No.11 has any independent cause of action against his landlord, except instant Suit, he can agitate the same in accordance with law. In the circumstance, both these applications being misconceived are hereby dismissed.

4&6. Hearing of both these applications is adjourned to the next date when the Application bearing CMA No.5974/2014 under Order VII rule 11 CPC would be taken up first.

J U D G E

Ayaz P.S.