

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.2292 of 2014.

Present:-

Mr. Justice Muhammad Junaid Ghaffar.

Muhammad Haris Akhund -----Plaintiff.

Versus

Mst. Shafaq Parvez-----Defendant.

Date of hearing: 11.01.2016

Date of Judgment:: 11.01.2016

Plaintiff: Through Ms. Noor Naz Agha, Advocate.

JUDGMENT

Muhammad Junaid Ghaffar, J. Through instant suit the plaintiff has sought for the following relief(s):-

- a. To declare the defendant as benamidar of the plaintiff in respect of property/apartment No.902, zam zam residency, Frere Town Quarters, near PSO Petrol Pump, Teen Talwar Karachi.
- b. To declare the plaintiff as an exclusive owner of the suit property i.e. apartment No.902, zam zam residency, Frere Town Quarters, near PSO Petrol Pump, Teen Talwar Karachi.
- c. To restrain the defendant to create third party interest in the suit property.
- d. Any other relief or reliefs, which this Hon'ble Court may deem fit and proper in the circumstances of this instant suit, may be granted.
- e. Cost of the suit may be awarded.

2. After filing of instant suit, notices/summons were ordered to be served upon the defendant and the defendant was served through publication as well as by bailiff and such report of service is available on record, however, none has effected appearance and therefore vide Order

dated 09.10.2015, matter was directed to be proceeded ex-parte against the defendant. Thereafter plaintiff has filed his affidavit-in-evidence as Ex-parte Proof against the defendant and appeared in person for executing the affidavit in the Identity Branch of this Court. None has affected appearance on behalf of the defendant to cross examine the plaintiff.

The Suit has been filed seeking declaration that the defendant is the benami owner of property bearing Apartment No.902, 9th Floor, Zam Zam Residency, near PSO Petrol Pump, Teen Talwar, Clifton, Karachi, which according to the plaintiff was purchased by him in the joint name of his ex-wife/defendant in the suit and after divorce, the plaintiff has filed instant suit seeking a declaration that he is the exclusive and actual owner of the said property. Since defendant has not come forward to contest the Suit despite service of summons as well as publication through newspapers, therefore, the averments in the plaint and the Affidavit have gone un-rebutted. The Court in matters wherein Ex-parte proceedings are being carried on, has an additional burden and duty cast upon it, to ensure that the ends of justice are met and the interest of the party who has not been able to defend its case for any reason whatsoever, shall be protected and must be dealt with in accordance with law. For this I have also examined the contents of the plaint and the Affidavit in Evidence in Ex-parte Proof, and of the view that the plaintiff is entitled for the prayers(s) being sought through instant Suit, whereas, it appears that the defendant has no case to defend.

Accordingly, instant suit is decreed to the extent of prayer clauses "a" and "b". Decree shall be prepared accordingly. Suit stands decreed.

Judge