

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 451 of 2016.

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For orders on CMA No.2916/16 (U/R 110)
2. For order on CMA No.2910/16 (U/O 39 Rule 1 & 2)

22-02-2016.

Mr. Ravi R. Pinjani, Advocate for the plaintiff.

1. Granted.
2. Through this suit for declaration, cancellation, injunction and damages, the plaintiff has challenged the construction of a high-rise building on Plot Nos. 155-S and 155-R, in Block-2, P.E.C.H.S, Karachi as the plaintiff, who lives next to the said plots, is seriously aggrieved by the said construction. The plaintiff has also challenged the No Objection Certificate issued by the respective authorities as well as amalgamation of the plots in question and so also the I.E.E. issued by the Sindh Environmental Protection Agency. Counsel submits that insofar as Plot No.155-S is concerned, the same is on main Sir Syed Ahmed Road, which has been declared as commercial, whereas, Plot No.155-R is just behind the said plot and defendant No.1 has obtained amalgamation of the two plots in question by showing both of them as residential plots, whereas, even otherwise, per learned Counsel the plot bearing No.155-R could not have been commercialized in this manner. Counsel further submits that the plaintiff, who lives just next to the plots in question has noticed serious damages to her property, whereas, she has also obtained a preliminary report through a Structural Engineer, and on his visit on 14.2.2016, he has observed that there are series of major cracks in boundary wall, external flooring, whereas, skirting tiles have

also been damaged. This according to the Engineer is perhaps due to construction of high rise building, which has dug out the foundation on the plots. Counsel submits that according to law, the defendant No.1 was required to obtain an EIA in respect of the Environment Impact Assessment, whereas, they have obtained IEE from the Sindh Environmental Protection Agency. Counsel submits that such construction, which is being carried out by defendant No.1 is under the garb of an Order dated 15.01.2016 obtained by them in Suit No.89 of 2016, against the SBCA, whereas, the Court has only passed an Order to the effect that no coercive action shall be taken against them in relation of lawful construction being carried out. Per Counsel since the construction is being carried out on the basis of unlawful and illegal permission, whereas, the plaintiff's life is in danger as serious damage is being caused to the plaintiff's house, therefore, some restraining order be passed against the defendant No.1.

3. In the circumstances, let notice be issued to the defendants for 29.02.2016. Till then the defendant No.1 is restrained from carrying on further construction on the said plots. Office to fix this Suit along with Suit No 89 of 2016 on the next date.

J U D G E

Ayaz