

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**Suit No.1354 of 2022**

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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1. For hearing of CMA No.13191/2022 (Exemption).
2. For hearing of CMA No.13192/2022 (stay).
3. For hearing of CMA No.13193/2022 (U/S 151 CPC).

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**Dated 03.11.2022**

Mr. Syed Hassan Jafri, Advocate for the plaintiffs.  
Mr. Mubashir Bhutta, Advocate for the defendant.

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1. Exemption is granted subject to all just legal exceptions.
  
2. This suit for declaration, permanent injunction, mandatory injunction & recovery of compensation and damages was filed against Mr. Raheel Qaiser who perhaps acted as an estate agent/ broker. In relation to a property, some agreements were entered into between parties. The first agreement in this regard was executed on 01.03.2021, available at page-33 and the second that was reduced into writing as an addendum agreement on 17.09.2021. It is claimed by the defendant's counsel that there were two agreements executed on 01.03.2021, however, the other one of the same date was not relied upon by the plaintiffs. Be that as it may, in relation to the aforesaid agreements, the plaintiff took Rs.50 million as sale consideration, however, when the deal was not materialized, it is claimed by the plaintiff that an amount of Rs.30 million was returned and rest of the amount was retained by them. It is that amount which they are now willing to deposit in court and it is requested that no coercive action relating to their property be taken which property is otherwise also involved, according to the counsel for the defendant, in some other cases such as one of specific performance.

I have heard learned counsel and perused the material available on record.

As far as this application (CMA No.13192/2022) is concerned, the plaintiffs have sought an interim relief to the extent that the defendant be restrained from taking law in their hands in any manner whatsoever and further from raising threats to the plaintiffs. In relation to these two contentions, learned counsel for the plaintiff,

except for the fact that the suit for performance has been filed, no supporting documents have been filed. If, per plaintiff's counsel, filing of a suit for performance of agreement amounts to taking law in hand, the plaintiffs may not be entitled to any injunctive order. Defendant filed a suit for performance and the plaintiffs have a remedy to defend and pursue it as required under the law. Furthermore, as far as the restraining order against the defendant in relation to subject property is concerned, I am afraid that pursuing remedies for performance is not an adverse action in relation to a property. The purchaser has now initiated proceedings for the performance of the agreement which shall be taken into consideration independently in the suit filed by the defendant. In addition to it, defendant has the right to avail any remedy as he deem fit and proper. This application as such being misconceived is dismissed.

3. This is an application whereby plaintiffs seek permission of this Court to deposit an amount of Rs.19,882,000/- with the Nazir of this Court that was retained by the plaintiffs at the time when deal was not materialized. As stated above, out of Rs.50 million, the plaintiffs returned Rs.30 million retaining balance amount which they now intend to deposit in these proceedings. This is not a suit for performance nor cancellation, as stated. The plaintiffs however may, if they so desire, move an application for deposit of the aforesaid amount in the suit filed by the defendant for performance of the agreement. This application too being misconceived, in view of the nature of the suit, is dismissed.

JUDGE

Ayaz Gul