

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

C. P. No. D – 515 of 2020

Date	Order with Signature of Judge
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1. For orders as to the maintainability of the petition :
2. For hearing of CMA No.24815/2020 (U/O I R 10 CPC) :

30.11.2022 :

Mr. G. N. Qureshi, Advocate for the petitioner
a/w Mr. Samiullah Khan Advocate.

Mr. Khalid Javed, Advocate for intervenors and respondents 6(a) to (d)
a/w M/S Munawar Juna and Yousuf Makda Advocates.

Mr. Sibtain Mehmood, Addl. A.G. Sindh.

1. Deferred for the time being.
2. Through this application, the intervenors have prayed that they may be impleaded in this case as they are necessary parties to the present petition. They have stated that they had filed F.C. Suit No.78/2017 against the Revenue officials before the Senior Civil Judge Sujawal in respect of the subject land which Suit was decreed ; the appeal filed by the Revenue Department against the said decree was dismissed ; in their above mentioned Suit, an application under Order I Rule 10 CPC was filed by the present petitioner for becoming a party therein but the same was dismissed by the trial Court and Civil Revision No.02/2018 filed by him against such dismissal was also dismissed ; the petitioner then filed C.P. No.D-45/2018 before the Circuit Court Hyderabad which was also dismissed ; and, the petitioner has concealed all the above facts from this Court in his present petition. The applicants have categorically stated that they have not encroached upon the subject property, and the same was purchased by them for valuation consideration vide sale deeds executed and registered in their favour. In support of their above contention, they have filed copies of the aforesaid orders and registered sale deeds along with this application.

In his counter affidavit, the petitioner has alleged that the decree obtained by the intervenors is in respect of Government land and not private land ; the documents relied upon by them are baseless ; the subject land was fraudulently entered in the name of the predecessor of respondent No.6 and the intervenors which entry was subsequently cancelled by the Additional Commissioner-II Hyderabad ; and, the petitioner has filed a Suit in respect of the subject land for declaration and mandatory and permanent injunction.

The counter affidavit filed by the petitioner shows that it is not disputed by him that not only a decree in respect of the subject land was passed in favour of the intervenors, but also that the said decree is still in the field. It is a matter of record that the petitioner also filed an application under Order I Rule 10 CPC for becoming a party in the Suit filed by the intervenors, but his said application was dismissed which dismissal was challenged by him before the revisional Court and this Court, however, the dismissal was maintained. The question whether or not the said decree was fraudulently obtained by the intervenors, cannot be decided in the instant petition. Needless to say if the said decree was obtained by fraud as alleged by the petitioner, he ought to have availed his remedy, if any, under Section 12(2) CPC which course has admittedly not been adopted by him. Be that as it may, the fact remains that the intervenors have a decree in their favour in respect of the subject land and relief has been sought in the present petition in respect of the same land. In such circumstances, the intervenors are indeed necessary parties to the present proceedings.

The application is, therefore, allowed with no order as to costs. Let the amended title / petition be filed within fifteen (15) days.

JUDGE

JUDGE

Asif