

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.

C.P No. D-3838 of 2022

Dated Order with signature of Judge.

Priority

1. For hearing of CMA No. 17431/2022
2. For hearing of main case.

20.02.2023

Petitioner present in person.
Mr. Fahim Ahmed, Advocate for the Respondent Nos.1 & 2.
Mr Jawad Dero, Addl. A.G.

YOUSUF ALI SAYEED, J.- The Petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution so as to impugn the Order dated 24.05.2022 made by the IXth Additional District Judge, Karachi West, dismissing Civil Revision No.16 of 2022 filed by the Petitioner against earlier order made on 24.01.2022 in Civil Suit No.918 of 2021 by VIIIth Senior Civil Judge Karachi West, rejecting the Plaint on an application under Order VII Rule 11 CPC.

The backdrop of the matter is that the Petitioner had filed the aforesaid Suit claiming ownership of five plots on the basis of sale agreements said to have been entered between him and the allottees thereof, with it being prayed that he be declared the bonafide purchaser and handed over vacant peaceful possession.

However the allottees were not impleaded, with only the officials of the Karachi Port Trust and other officials being arrayed as Defendants. Furthermore, as it transpired that the allotments had since been cancelled by the concerned authority, and the Plaintiff being rejected on that score. The relevant excerpt from the Order of trial Court reads as follow:-

“Heard the arguments of both the parties and have peruse the record which reveals that since the Hon’ble Supreme Court of Pakistan held in Judgments reported as 2020 SCMR 153, 2020 SCMR 513 and 2020 SCMR 1499 that the Board of Trustees of Karachi Port Trust were not authorized by law to create housing societies for its officers and servants and lease, transfer or sell the property/land of the plot to its officers and servants. Such act of the board of trustees of creating housing society for officers and servants was contrary to the very mandate of the Karachi Port Trust Act 1886. The dictum laid down by the Hon’ble Supreme Court of Pakistan has binding effect upon all organs of State including subordinate courts as per article 189 of Constitution of Islamic Republic of Pakistan 1973. The Hon’ble Supreme Court has already declared the transfers, allotment and sell of property by the KPT by establishing housing societies as illegal. It is admitted position that plaintiff have no legal character and purchased the suit property from whom, have not made, the party, hence suit filed by the Plaintiff is not maintainable and Plaintiff have no cause of action to file the present suit.”

Under the given circumstances, we see no illegality or perversity in the orders of the fora below, hence there is no cause for interference in the matter. That being so, the Petition stands dismissed along with the pending miscellaneous application.

JUDGE

CHIEF JUSTICE