



Sindh, who endorsed thereupon on 28.02.2018, "PLEASE PROCESS AND RESOLVE IN 15 DAYS."; thereafter, the leases were renewed violating the law(s); that the renewal of leases was due to intervention of the said MPA with the active connivance and collusion of respondents; that, if any illegality and irregularity is placed before the Court of law, wherein no administrative action(s) were taken by the authorities concerned, then the Courts may take appropriate action to safeguard the interest of general public; that this being the position, applicants have come to this Court in public interest, among others, for cancellation of the petitioner's documents and in terms of above mentioned facts the applicants/intervenors are necessary party to join the instant petition in terms of Order I Rule 10 C.P.C.

On the other hand, learned counsel for the petitioner maintains that applicants/Intervenors are trying to hide behind the children and the youth of the locality so as to get some relief from this Court; that the football ground is a private property owned and possessed by the petitioner and under the garb of safeguarding the interest of general public, the applicants are attempting to safeguard their own interests by conniving with the encroachers to take over the subject plots illegally; that the petitioner is a Society and has members across the globe; that the purpose of acquiring the subject plots was to use it for the benefit of the members of the petitioner; that the petitioner being lawful owner of the subject plots is well within its rights to use and utilize the same the way it desires subject to the law and such rights are guaranteed by Articles 23 and 24 of the Constitution; that the applicants have questioned the title of the petitioner, which is free from any cloud and the entire chain of documents demonstrate the perfection of the title of the petitioner; that earlier like of the applicants, some other person filed a suit back in 1980 being Suit No. 1008 of 1980, the facts of the instant CMA are identical to the facts of the

aforesaid suit, which was dismissed by the learned III<sup>rd</sup> Senior Civil Judge, Karachi (East) on 24.11.1998. The aforesaid suit was filed in this Honourable Court but due to increase in pecuniary jurisdiction, it was transferred to the District Court; that the applicants are neither necessary nor proper party and they do not have any nexus to the subject plots; hence the instant CMA is liable to be dismissal.

We have heard the learned counsel and perused the record.

It appears that the petitioner- Ismailia Platinum Cooperative Housing Society Limited has filed the instant petition seeking direction to the respondents No.1 to 5 to survey and demarcate the subject plots i.e. (i) Plot No.GRW-255/1/5, (ii) Plot No.GRW-255/1/6, (iii) Plot No.GRW-255/1/14, (iv) Plot No.GRW-255/1/15 and (v) Plot No.GRW-255/1/16 all situated at Garden West Quarters, Karachi. The petitioner also seeks direction to the respondents No.6 to 8 to provide fool proof security to the petitioner/Society Members and take concrete measures to prevent encroachment over subject plots. The petitioner further seeks permission to raise boundary wall over subject plots. It is claim of the petitioner/Society that it is bona fide purchaser/owner for valuable consideration and in possession of the subject plots. It further appears that originally Plot No. 255/1 (*Old Survey No. 96, PO 65, Garden West, Karachi*) was owned by one Jamnadas Vishandas, who allegedly inherited it from his father. The said Plot came into the pool of the Settlement Department which bifurcated it into five sub-plots/subject plots and put the same to auction vide Publication, dated 18.07.1960. Different auction purchasers purchased the subject plots on payment of the auction price and the same were transferred in their favour through Deeds during 1960 to 1972, as per details mentioned in para No. 8 of the petition. Subsequently, the planning of plots was changed and 20 feet wide lane falling between the subject plots was abandoned,

resultantly, the area of the 20 feet wide lane was given to the relevant plot owners. As such, initially the subject plots being evacuee property were purchased in Government auction by their respective purchasers and from them the petitioner purchased the plots under conveyance deeds after completing all requisite formalities. The subject plots were earlier subject matter of Suit No. 1008 of 1980 which was filed by the plaintiff of the said suit claiming the subject plots as football ground; however, he failed to obtain any interim injunctive order and later the said suit was dismissed for non-prosecution on 24.11.1998. Hence, till date there is prima facie no cloud over the title of the petitioner in respect of subject plots.

The applicants/intervenors through instant CMA intend to become party/respondents in the instant petition on the basis of assertion that *Jamnadas Vishandas was not a displaced person and since the plot(s) was/were not evacuee, the same could not have been acquired in terms of sub-Section 2 of Section 3 of the Act of 1958*. In this regards, it appears that the auction notice was got published by the Settlement Department on 18.07.1960, sixty-three years before, the title documents were issued/executed in favour of the auction purchasers and, thereafter, the petitioner-Society purchased the subject plots from 1970 to 1978. Meanwhile, the leases of subject plots on being expired were renewed by the Deputy Commissioner, Karachi-East for further term of 80 years, commencing from 01.08.1995 to 01.08.2075. In support of their claim that the subject plots are in fact the land of the Football Ground, the applicants have annexed with the CMA a Google Map, which is not an authenticated document. Even otherwise an issue relating to dispute of the title of an immovable property cannot be decided by this Court under its Constitutional Jurisdiction, as the adjudication thereof requires recording of pro and contra evidence of the parties which is not the domain of this Court.

It may be observed that an applicant has to satisfy the Court for his impleadment as defendant/respondent party that his impleading is necessary or proper for an effective and complete adjudication of all questions involved in the suit, in the instant case involved in the petition. A necessary party is one without whom no order can be made effectively while the proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision of the questions involved in the suit. It may be observed that the plaintiff/petitioner is the best evaluator of his own interest and where the relief is sought against particular individual and such individual is impleaded as defendant, it is not the concern of the Court to see whether somebody else must be allowed to intrude into the case as defendant/respondent against the plaintiff/petitioner's will. In the case of Islamic Republic of Pakistan v. Abdul Wali Khan **PLD 1975 SC 463**, it has been observed by the Apex Court as under:

*“Now a proper party is a party whose presence before the Court is necessary to enable the Court to effectually and completely adjudicate upon and settle all questions involved in the proceedings. The term “questions involved” include all matters, material to a proper decision of the case but the object of making such persons parties is to prevent multiplicity of proceedings. The person must, therefore, be a person whose interest is likely to be effected even though no relief is claimed against him. This does not, therefore extend to persons who have no interest which is likely to be effected by the proceedings nor does it embrace persons only generally interested in common with other nor can persons be added as parties so as to set up a new cause of action which does not concern the original parties.”*

It appears from the scanning of the prayers clause(s) that the questions involved in the petition relate to the ascertaining of the location of the petitioner Society's subject plots. It is not the case of the

applicant's/intervenors that they are directly and legally interested in the answers to the questions involved in the petition. Mere fact that applicants may, by some chance, become interested in claiming subject plots adversely to the petitioner Society, would be no ground for their being so impleaded because that would necessitate importation of such further facts which have not been found in this petition.

For the foregoing facts and reason, this CMA is dismissed being devoid of merit with no order as to costs.

**1. C.M.A. No.23247/2023.** In view of our order passed on C.M.A. No.19531/2023 this C.M.A., filed by the applicants/Intervenors for recalling of the order dated 29.03.2023, has become infructuous; hence, the same is dismissed, accordingly,

**3 to 5.** Adjourned to date in office.

JUDGE

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