

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Omar Sial

High Court Appeal No. 95 of 2024

Syed Muhammad Kazim & others **Appellants**

Versus

**M/s. Ali Builders & Developers
(Pvt.) Limited and others** **Respondents**

Syed Muhammad Kazim, Advocate/Appellant No.1 in person

Date of hearing : 11.03.2024

Date of short order : 11.03.2024

Date of judgment : 11.04.2024

JUDGMENT

OMAR SIAL, J.: Syed Muhammad Kazim, his wife Naheed Bano and his son Syed Shujat Hussain filed Suit No. 1930 of 2022 against Ali Builders, Sehwan Development Control Authority, Karachi Development Authority and the Province of Sindh (through the Board of Revenue). Kazim claims that the subject of the dispute are three plots of land in a project named Al-Qaim Midway City.

2. The plaint in the Suit was ordered to be returned under Order VII Rule 10 C.P.C. by a learned Single Judge of this Court pursuant to an order dated 20.02.2024. The learned Single Judge concluded that the Principal Seat at Karachi did not have territorial jurisdiction as the properties in question were all located within the territorial jurisdiction of Senior Civil Judge Hyderabad.

3. We have heard Mr. Syed Muhammad Kazim, who is aggrieved by the order of the learned Single Judge and also happens to be an advocate.

4. Mr. Kazim frankly admits that there is no dispute regarding the fact that the properties are located in District Jamshoro and not within the territorial limits of the Districts of Karachi or Thatta. He however submits that as some of the respondents reside in Karachi and that he had entered into the transaction in Karachi, the case can be heard in Karachi.

5. Section 16 of the Civil Procedure Code provides that, amongst other grounds, a suit for the recovery of immovable property and for determination of any other right to or interest in immovable property is to be instituted in the Court within the local limits of whose jurisdiction the property is situated however in the case of suits concerning foreclosure, sale or redemption of mortgaged properties, a suit may be filed at the place where the cause of action arose. In the current case, the property is situated in Jamshoro and the relief sought is primarily for specific performance. Section 16 would be applicable in the situation. Although it has not been argued before us by the learned counsel, we have also taken into account section 120 C.P.C. which provides that inter alia section 16 will not apply to the High Court in the exercise of its original civil jurisdiction. In this regard, we have been guided and persuaded by the decision of a Division Bench of this Court in *Muhammad Naveed Aslam v. Aisha Siddiqui (2011 CLC 1176)*.

We find ourselves in agreement with the observations made in the above mentioned case.

6. Above are the reasons for dismissing the appeal through our short order dated 11.03.2024.

JUDGE

JUDGE