

**ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI**

SUIT NO. 661 of 1979

**A.M. QURESHI
Through his Legal Representatives**

Versus

**Deputy Commissioner East
And others**

Date:	Order with signature of Judge
Plaintiffs	: Mr. Mureed Ali Shah, Advocate.
Defendant No. 1, Defendant No. 2 and Defendant. No. 3	: Mr. Aley Maqoob Rizvi, Additional Advocate General Sindh, Mr. Ziauddin Junejo, Additional Advocate General Sindh along with Mr. Akhtar Ali Mastoi, Advocate for Board of Revenue
Defendant No. 4	: Mr. Amir Raza, Advocate holding brief for Mr. Adnan Ahmed, Advocate
Defendant No. 5	: Mr. Khalil Siddiqui, Advocate
Defendant No. 6	: Nemo
Defendant No. 7	: Nemo
Defendant No. 8	: Nemo
Defendant No. 9	: Nemo
Defendant No. 10	: Nemo
Defendant No. 11	: Nemo
Intervenor	: Mr. Asad Ali Leghari, Advocate
Date of hearing	: 21 August 2023, 23 August 2023, 13 September 2023, 15 September 2023, 20 September 2023, 28 September 2023, 2 October 2023, 5 October 2023, 11 October 2023, 12 October 2023 and 19 August 2024

ORDER

MOHAMMAD ABDUR RAHMAN, J. Through this Order I will be deciding the following applications:

A. The Applications

(i) **CMA No. 1679 of 1987** is an application maintained under Section 3 of the Contempt of Court Act, 1976 read with Order XXXIX Rule 2(3) of the Code of Civil Procedure, 1908 seeking proceedings for Contempt of Court to be instituted as against one Mr. Farhat Ali Khan the Administrator of the Defendant No. 5 for violating an order dated 22 November 1981 that had been passed on CMA No. 3180 of 1979 and which order had confirmed the ex parte ad interim order dated 28 August 1979 directing the parties to this *lis* to maintain status quo.

(ii) **CMA No. 217 of 1992** being an application maintained under Order XXXIX Rule 2(3) of the Code of Civil Procedure, 1908 seeking proceedings for Contempt of Court to be instituted as against:

- (i) Ghulam Ali Pasha, the Deputy Commissioner Karachi East, and
- (ii) Mr. Ghulam Abbas Soomro the Member (Land Utilization) Board of Revenue Sindh

for violating an order dated 22 November 1981 that had been passed on CMA No. 3180 of 1979 and which had been confirmed on 28 August 1979 directing the parties to this *lis* to maintain status quo.

(iii) **CMA No. 2197 of 1996** being an application maintained under Order XXXIX Rule 2(3) of the Code of Civil Procedure, 1908 seeking proceedings for Contempt of Court to be instituted as against the Deputy Commissioner (East) and others and as against the Capital Cooperative Housing Society Limited for violating orders passed by this Court.

(iv) **CMA No. 6209 of 2002** being an application maintained under Order I Rule 10 (2) of the Code of Civil Procedure, 1908 by the Defendants No. 8 to 11 seeking to strike off the names of the then Defendant No. 5 (Capital Cooperative Housing Society Limited) and the then Defendant No. 7 (Mr. Manzar Hussain Kazmi) from these proceedings on the ground that:

- (i) the allotment that had been made in favour of Capital Cooperative Housing Society Limited had been cancelled by the Defendant No.2

vide Order No.PS/MBR/LU/1647 dated 25 May 1992 by the Defendant No. 2;

- (ii) as Rizvia Cooperative Housing Society Limited had been struck off as a party to these proceedings, Mr. Manzar Hussain Kazmi who derived his right to his property through Rizvia Cooperative Housing Society Limited should also be struck off in a like manner.

- (v) **CMA No. 9278 of 2011** being an application maintained under Section 52 of the Transfer of Property Act, 1882 read with Section 3 of the Contempt of Court Act, 1976 and Order XXXIX Rule 2(3) of the Code of Civil Procedure, 1908 as against:

- (i) Haji Adam Jokhio
- (ii) Sabir Hussain Jokhio
- (iii) Aurangzeb Jokhi
- (iv) Omais Jokhio
- (v) Lal Muhammad
- (vi) Karim Jokhio
- (vii) Sardar Temur Khan Durrani, Cantonment Executive Officer, Cantonment Board Malir
- (ix) Mrs. Seema Rasool Uner

for purportedly violating the orders dated 28 August 1979, 22 November 1981, 30 September 1990, 9 March 1992, 4 September 2001, 11 December 2001 and 13 May 2002 passed on various applications from time to time including, but not limited to an order directing the parties to the *lis* to maintain status quo.

- (vi) **CMA No. 2592 of 2012** being an application maintained under Order I Rule 10 of the Code of Civil Procedure 1908 whereby the personsimpled as the Defendants No. 11 (a) to (g) seek to be transposed as Co-Plaintiffs in this Suit pursuant to an order dated 3rd June 2010 passed by the Supreme Court of Pakistan in CPLA No. 29 of 2009.

- (vii) **CMA No. 11601 of 2012** being an application maintained under Article 204 of the Constitution of the Islamic Republic of Pakistan, 1973 seeking that the proceedings for Contempt of Court should be instituted as against:

- (i) Honorary Secretary Rizvia Cooperative Housing Society Limited
- (ii) Member Land Utilisation Department
- (iii) Deputy Commissioner

- (iv) Mukhtiarkar /ACSO
- (v) Commissioner Karachi
- (vi) Director General Sindh Building Control Authority
- (vii) Director Gulshan -I
- (viii) The Executive Officer, Cantonment Board Malir,
- (ix) The inspector General Registration

for purportedly violating the orders dated 28 August 1979, 22 November 1981, 30 September 1990, 9 March 1992, 4 September 2001, 11 December 2001 and 13 May 2002 passed on various applications from time to time including, but not limited to an order directing the parties to the *lis* to maintain status quo.

- (viii) **CMA No. 3809 of 2013** being an application maintained under Section 151 of the Code of Civil Procedure 1908 seeking to recall the order dated 13 March 2013 passed on CMA No. 2560 of 2013 by clarifying that the Plaintiff No. 2 has not surrendered his share of the said property in the Suit in favour of the Defendant No 2.
- (ix) **CMA No. 11895 of 2013** being an application maintained under Order I Rule 10 read with Section 151 of the Code of Civil Procedure 1908 whereby the persons impleaded as the Defendants No. 11 (a) to (b) seek to be transposed as Co-Plaintiffs in this Suit pursuant to orders passed on 3rd June 2010 by the Supreme Court of Pakistan in CPLA No. 29 of 2009.
- (x) **CMA No. 14226 of 2013** being an application maintained under Order VI Rule 17 read with Order II Rule 2 of the Code of Civil Procedure 1908 whereby the Defendants No. 10 (a) to (g) seek certain amendments to be made to the Plaint.
- (xi) **CMA No. 1557 of 2014** being an application maintained under Article 204 of the Constitution of the Islamic Republic of Pakistan, 1973 and whereby the Plaintiffs seek proceedings for contempt of court to be instituted as against
 - (i) Khalid Goraya, Commander Bhattai Rangers,
 - (ii) Major Syed Ehsan Ali Shah, Bhattai Rangers
 - (iii) Ghulam Haifer Jamali, Inspector General Police
 - (iv) Munir Shaikh, DIG East and Malir;
 - (v) Rao Anwar, SSP District Malir
 - (vi) Shoaib Ahmed SHO PS Sachal
 - (vii) Faisal Awan, Incharge SHO PS Sachal,

- (viii) M.Luckman Ali, AS Duty Officer, PS Sachal
- (ix) Aftab Mirani
- (x) Fida Malah
- (xi) Himat Malah
- (xii) Madat Malah

For purportedly violating the orders dated 28 August 1979, 22 November 1981, 30 September 1990, 9 March 1992, 4 September 2001, 11 December 2001 and 13 May 2002 passed on various applications from time to time including, but not limited to an order directing the parties to the *lis* to maintain status quo.

- (xii) **CMA No. 4038 of 2015** being an application maintained under Order XXXIX Rule 1 and 2 read with Section 151 of the Code of Civil Procedure 1908 maintained by the Defendants No. 11 (a) and (f) to maintain status quo in respect of a portion of the Suit land.
- (xiii) **CMA No. 17768 of 2023** being an Application under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 maintained by the Plaintiff seeking to amend the Plaint.
- (xiv) **CMA No. 11800 of 2023** being an application maintained under Order XII Rule 6 of the Code of Civil Procedure 1908 by the Plaintiff praying for the Suit to be decreed in favour of the Plaintiffs to the extent of 225 Acres and 9.5 Ghuntas on the basis of:
 - (a) Statement dated 7 February 1995 filed by the Counsel for the Defendant No. 1, the Defendant No. 2 and the Defendant No. 3;
 - (b) Letter No. 01-218-02/SO-1/615 dated 18 July 2009 of the Defendant No. 2 addressed to the Secretary Law Department Government of Sindh;
 - (c) opinion tendered by the Advocate General Sindh vide Letter No AG 2546 of 2009 dated 9 September 2009;
 - (d) Letter No. 03-16-02/SO-I/431 dated 23 June 2010 of the Defendant No. 2 addressed to Secretary Law Department Government of Sindh;
 - (e) Opinion tendered by Secretary Law Department Government of Sindh vide Letter No. B(22) /2008/165 dated 24 June 2010;

- (f) Parawise comments/Counter Affidavit dated 21 December 2021 of the Defendant No. 2;
- (g) Order dated 23 December 2002 passed by Defendant No.2 in Review Application No. 479 of 2022;
- (h) Order dated 15 November 1992 and 26 January 2015;
- (i) Mukhtiarkar Letter No. MUKH/ACSO/SCH-33/160.2012 dated 15 March 2012;
- (j) Survey Superintendent Letter No. S-S/KYC/347/2011 dated 25 May 2012; and
- (k) Nazir Report dated 13 December 2013.

B. The Facts

2. To say that these proceedings are protracted would be an understatement. In the Plaint and through arguments maintained by the Plaintiff it is contended that Mr. A. M. Qureshi was, on 14 October 1963, allotted a piece and parcel of land by the Province of Sindh in NaClass No 21, Deh Dozan, District East, Karachi admeasuring 250 Acres for a term of 99 years for establishing a school (hereinafter referred to as the "Said Property"). A Sanad was issued by the Province of Sindh on 14 January 1965 in favour of Mr. A.M Qureshi and physical possession of the Said Property vested with him. In or around 1969, the Karachi Development Authority planned a "Zonal Scheme" which came to be known as KDA Scheme No. 33 and which scheme was superimposed on the Said Property and which led the Said Property to be located in Sectors 34A, 34 B, 35A, 35B and 36A of KDA Scheme No. 33.

3. While land levelling and certain other works were purportedly undertaken by Mr. A.M Qureshi, the Said Property generally remained undeveloped and was not put to the use that it was meant for and which is purportedly justified by Mr. A.M. Qureshi on various grounds. On 5 December 1970 the Deputy Commissioner passed an order cancelling the allotment of the Said Property. An Appeal was preferred before the Revenue Commissioner and on 18 December 1972 the order of the Deputy Commissioner was set aside and the allotment of the Said Property was restored in favour of Mr. A.M. Qureshi.

4. On 7 January 1976 the Deputy Commissioner once again cancelled the allotment of the Said Property. Mr. A.M. Qureshi once again preferred an appeal before the Commissioner Karachi and who passed an order in effect directing that during the pendency of that Appeal, the parties were to maintain status quo. It seems that despite the order passed by the Commissioner, the Deputy Commissioner continued to attempt to dispossess Mr. A.M Qureshi's from the Said Property and which resulted first in the matter being referred to the Revenue Minister and where after this Suit was maintained before this Court on 20 August 1979. Along with the Suit, Mr. A.M Qureshi presented CMA No. 3180 of 1979 being an application under Order XXXIX Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 and on which application interim injunctive orders were passed and which were confirmed on 22 November 1981 directing the parties to maintain status quo.

5. It is at this time that it becomes apparent that parallel allotments have been made over portions of the Said Property and an application bearing CMA No. 931 of 1982 was maintained by the Capital Cooperative Housing Society Limited under Order 1 Rule 10 of the Code of Civil Procedure, 1908 contending on the basis that as parallel allotments had been made that they should be made a party in this Suit. This application was granted on 15 August 1982 and on which date Capital Cooperative Housing Society Limited was impleaded as the Defendant No. 5.

6. On account of the pendency of this Suit, the Appeal that was maintained by Mr. A.M. Qureshi before the Commissioner Karachi was apparently not pursued and which was dismissed for non-prosecution on 2 June 1984. An Application bearing CMA No. 3960 of 1984 was maintained under Order 1 Rule 10 of the Code of Civil Procedure, 1908 to implead the Commissioner Karachi as a defendant and which was granted on 14 May 1985.

7. In the interim an application bearing CMA No. 2791 of 1988 was maintained by the Karachi Development Authority to re-survey the Said Property so as to exclude the area allotted to the Capital Cooperative Housing Society Limited and the area comprising roads that had been developed by the Karachi Development Authority from the allotment made to Mr. A.M Qureshi. The Application was allowed on 8 May 1988 and the Deputy Registrar (Judicial) was appointed as a commissioner to implement the order.

8. Mr. A.M Qureshi thereafter maintained CMA No. 3104 of 1988 and called for the resurvey of the Said Property without excluding the land that was allotted to the Capital Cooperative Housing Society Limited and the area comprising the

roads that had been developed by the Karachi Development Authority and which application was granted and the earlier order dated 8 May 1988 was modified.

9. At this time another cooperative society i.e. Rizvia Cooperative Housing Society Limited maintained CMA No. 8393 of 1988 to be impleaded as a party claiming that a partition of the Said Property overlapped with land that had been allotted to them and which was allowed on 20 December 1988. They also maintained CMA No. 8932 of 1988 seeking to postpone the survey of the Said Property and which was also disposed of on 20 December 1988 with directions that the land owned by Rizvia Cooperative Housing Society Limited should also be indicated on the Re-Survey Plan.

10. Mr. A.M Qureshi died on 22 June 1989 leaving behind the following persons as his legal heirs:

S No.	Name	Relationship	Status in Suit
1.	Begum Hafizunissa Qureshi (Since Deceased)	Wife	Defendant No. 11
2.	Sabir Qureshi	Son from Begum Hafizunissa Qureshi	Defendant No. 11 (a)
3.	Tariq Qureshi	Son from Begum Hafizunissa Qureshi	Defendant No. 11 (b)
4.	Akber Qureshi	Son from Begum Hafizunissa Qureshi	Defendant No. 11 (c)
5.	Iqbal Qureshi	Son from Begum Hafizunissa Qureshi	Defendant No. 11 (d)
6.	Nasir Qureshi	Son from Begum Hafizunissa Qureshi	Defendant No. 11 (e)
7.	Shahdia Aftab	Daughter from Begum Hafizunissa Qureshi	Defendant No. 11 (f)
8.	Seema Ghulam Rasool Uner	Daughter from Begum Hafizunissa Qureshi	Defendant No. 11 (g)
9.	Altaf Qureshi	Son from from Begum Hafizunissa Qureshi	Plaintiff No. 3
10.	Afroze Shah	Daughter from Kulsoom Bibi	Plaintiff No. 1
11.	Mohammad Hussain Qureshi ¹		Indicated as the Plaintiff No. 2 (ii) and also as the Defendant No. 9
12.	Khalid Rehman	Son from Kulsoom Bibi	Plaintiff No. 2 (i)
13.	Mumtaz Muzakkir	Daughter from Kulsoom Bibi	Defendant No. 8

11. An application bearing CMA No. 5376 of 1989 was maintained and by which the Defendant No. 11 and 11 (a) to (g) were each impleaded as **PLAINTIFFS** in the suit on 10 September 1989. It seems that deliberately the

¹ The status of Muhammad Hussain Qureshi as a legal heir of A .M. Qureshi is disputed in HCA No. 67 of 2007 that had been preferred as against a decision passed in Suit No. 756 of 1998 and also in CPLA No. 37-K of 2023 that had been preferred as against a decision passed in HCA NO. 274 of 2022 and a decision in this Suit passed on 13 July 2022 on CMA No.2021 of 2021

Defendants No. 11 and 11 (a) to (g) failed to disclose the fact that the late A.M Qureshi had children from his marriage to Mst. Kulsoom Bibi and who were **NOT** impleaded as the legal representatives of Mr. A.M. Qureshi.

12. On 26 January 1992, the then Secretary Land Utilisation vide Order No. PS/MBR/LU/178 in effect allotted a portion of the Said Property admeasuring 70 Acres to Mst. Murad Bibi and others and the Deputy Commissioner Karachi (East) handed over possession of that property to Mst. Murad Bibi in violation of the interim order dated 22 November 1981 that has been passed on CMA No. 3180 of 1979 directing the parties to maintain status quo.

13. On 17 February 1992, the then Secretary Land Utilisation vide Order No. PS/MBR/LU/545 through an order allotted another portion of the Said Property admeasuring 44 Acres¹³ and ½ Ghutas to one Mst. Noor Bibi and the Deputy Commissioner Karachi (East) handed over possession of that property to Mst. Noor Bibi in violation of the interim order dated 22 November 1981 that has been passed on CMA No. 3180 of 1979 directing the parties to maintain status quo.

14. CMA No. 788 of 1992 being an application for contempt was maintained as against the Defendant No. 1 and the Defendant No. 2 for violating the interim order dated 22 November 1981 that has been passed on CMA No. 3180 of 1979. This resulted in the then Secretary Land Utilisation vide Order No. PS/MBR/LU/1647 dated 25 May 1992 cancelling the allotment made to Mst. Murad Bibi and others and vide the same order i.e. Order No. PS/MBR/LU/1647 also cancelling the allotment made to Capital Cooperative Housing Society Limited.

15. Mst Murad Bibi and others filed Suit No. 709 of 1993 against the Order No. PS/MBR/LU/1647 dated 25 May 1992 cancelling the allotment made to her.

16. On 24 March 1994 vide Order No. PS/MBR/LU/367 the Secretary Land Utilisation cancelled a supersession order dated 30 May 1992 passed in favour Mst. Murad Bibi and on the same date vide Order No. PS/MBR/LU/368 also cancelled the land granted to Mst. Noor Bibi.

17. On 7 May 1994 Mst. Noor Bibi maintained C.P. No. 830 of 1994 and which was maintained against Order No. PS/MBR/LU/368 dated 24 March 1994. This Petition was eventually allowed on 22 October 1999 remanding the matter to Secretary Land Utilisation directing him to issue a show cause notice and provide Mst. Noor Bibi a hearing before making a decision.

18. **On 7 February 1995 the Defendants No. 1 to 3 filed a statement in Suit No.661 of 1979 & Suit No. 709 of 1993 that the land granted to Mst. Murad Bibi etc, Mst. Noor Bibi etc and Capital Cooperative Housing Society Limited had been cancelled and restored the original allotment Order dated 14 October 1963.**

19. Mst Murad Bibi and others maintained CMA No. 5254 of 1995, being an application under Order 1 Rule 10 of the Code of Civil Procedure, 1908 for being impleaded as a Defendant and which was allowed on 3 March 1993 and who are now impleaded as the Defendants No. 10 (a) to (g).

20. It seems that at this time an "arrangement" was made as between some of the legal heirs of Mr. A.M. Qureshi and the Province of Sindh whereby it was agreed as between the Defendants No. 11 (a) to (g) (who at that time were impleaded as the Plaintiffs) that if the Defendants No. 11 (a) to (g) agreed to "in effect" surrender their rights to establish a school on 24 Acres and 30 ½ Ghuntas of the Said Property, the Province of Sindh would be willing to allot them the same 24 Acres and 30 ½ Ghuntas in the Said Property on a residential cum commercial basis. CMA No. 2956 of 1996 was maintained by the Defendants No. 11 (a) to (g) and to which the Defendant No. 1 to 3 filed a counter Affidavit on 19 June 1996 indicating that the following persons had been granted parallel allotments over the Said Property or that a portion of the Said Property had been used to develop roads as indicated hereinunder:

S No.	Name of Allotee	Area	Colour	Status
1.	Capital Cooperative Housing Society Limited	80-14	Green	Cancelled
2.	Jumani	04-00	Orange	
3.	Mst. Noor Bibi & Ors	44-13½	Yellow	Cancelled
4.	Mst. Murad Bibi & Ors	70-00	Blue	Cancelled
5.	Area under roads	24-03	Black	Cancelled
6.	Pakistan Post Office Employees Cooperative Housing Society Limited and Manzar e Jillan Cooperative Housing Society Limited	01-19	Brown	
7.	Area Available	<u>24-30½</u>	Red	Restored to LRs of late AM Qureshi

It was further indicated in their Counter Affidavit that:

" ... *In view of the above facts, area 24-30½ Acres is not disputed in the above matter, therefore the Government has decided to compensate the Plaintiff by giving this area to the Plaintiff subject to withdrawal of the status quo order by this Hon'ble Court to that extent.*"

This Application was allowed by the Court by its order 4 July 1996 and 9 July 1996.

21. It seems that thereafter another application bearing CMA No. 4720 of 1996 was maintained by the Defendants No. 11 (a) to (g) this time attempting to "in effect" surrender their rights in respect of a further 114 Acres and 13 ½ Ghuntas of the Said Property and which application was also allowed on 6 October 1996.

22. It seems that around this time that one of allottees of Rizvia Cooperative Housing Society Limited i.e. Manzar Hussain Kazmi maintained an application to be impleaded as a Defendant and which was allowed on 27 November 1997. It seems that thereafter Rizvia Cooperative Housing Society Limited filed CMA No. 6568 of 1998 seeking to being deleted from the Suit and which was granted by a short order dated 12 January 1999 and the reasons for which were issued on 21 January 1999. It seems that having been removed from the proceedings in this Suit, Rizvia Cooperative Housing Society Limited purportedly transferred the 30 Acres that had been allotted to it.

23. It is contended that nearly three years later the Plaintiff No. 1 and the Defendant No. 8 became aware of the relinquishments made by the Defendants No. 11 (a) to (g) through CMA No. 2956 of 1996 and through CMA No. 4720 of 1996 and which caused them to maintain an application under Order 1 Rule 10 bearing CMA No. 6432 of 1999 and which was allowed by this Court on 29 November 1999 impleading Plaintiff No. 1 and the Defendant No. 8 as Defendants and which was premised on the assumption that the Plaintiff No. 2(i) and the Defendant No. 9 had also been impleaded as Defendants. This was not correct as the Plaintiffs No. 2 (i) and the Defendant No. 9 had till that date not been impleaded as parties to this Suit. The Plaintiff No. 1 and the Defendant No. 8 thereafter moved an application bearing CMA No. 10463 of 1999 seeking to be transposed as Plaintiffs but which was refused by this Court on 9 February 2000 but on that date also directed that the Plaintiffs No. 2 (i) and Defendant No. 9 should be impleaded as Defendants.

24. Having been impleaded as Defendants, the Plaintiff No. 1 and the Defendant No. 8 maintained CMA No. 5133 of 2001 and CMA No. 637 of 2002 seeking to recall the orders dated 4 July 1996, 9 July 1996 and 6 October 1996 and sought restoration of the interim injunction granted by the order dated 22 November 1981. These applications were in effect allowed by the Court on 11 December 2001 and 13 May 2002 **to the extent of restoring the status quo order to the entire Said Property.** The Defendants No. 10 (a) to (g) thereafter maintained an Appeal as against the order dated 11 December 2001 bearing HCA No. 253 of 2002 and which was dismissed as withdrawn on 17 August 2006.

25. In or around 2006, the Suit was on account of the revision of the pecuniary jurisdiction of this Court transferred to the 1st Senior Civil Judge Malir and was renumbered as Suit No. 115 of 2006. Similarly Suit No. 709 of 1993 that had been filed by Murad Bibi and others was also transferred to the 1st Senior Civil Judge Malir and renumbered as Suit No. 116 of 2006. The Plaintiff No. 1 and the Defendant No. 8 (who were at that time arrayed as Defendants) had maintained two separate applications for transposition and for amendments to be made to the Plaint. It seems that at this time the Defendants No. 11 (a) to (g) (who were at that time arrayed as Plaintiffs) maintained an application under Order 23 Rule 1 of the Code of Civil Procedure, 1908 for **conditional** withdrawal of this Suit and simultaneously also maintained Suit No. 1155 of 2008 before this Court in respect of the balance 112 Acres of the Said Property. In unison, Murad Bibi and others also maintained an application for the withdrawal of Suit No. 116 of 2006 (Old Suit No. 709 of 1993). The Plaintiff No. 1 and the Defendant No. 8 were not impleaded as parties in that Suit. It seems that around this time the Defendants No. 11 (a) to (g) also filed a statement seeking unconditional withdrawal of the Suit and which was granted by the Court on 24 March 2007 and on which date Suit No. 116 of 2006 (Old Suit No. 709 of 1993) was also dismissed as withdrawn.

26. Civil Revision Application No. 9 of 2007 was maintained as against the order dated 24 March 2007 allowing for the unconditional withdrawal of the Suit and which was dismissed vide order dated 26 July 2007. CP No. D-1620 of 2007 was thereafter preferred before this Court against the order dated 26 July 2007 passed in Civil Revision Application No. 9 of 2007 and against the order dated 24 March 2007 passed in this Suit and which also dismissed on 10 September 2008. The Plaintiff No. 1 and the Plaintiff No. 2 thereafter maintained CPLA No. 29 of 2009 before the Supreme Court of Pakistan and which was allowed on 3 June 2010 and by which inter alia the order dated 24 March 2007, by which the Suit was withdrawn unconditionally, was recalled and this suit was restored in the following terms:

“ ... **(i) The impugned orders dated 10.09.2008, 26.07.2007 and 24.03.2007 respectively passed by High Court of Sindh, Karachi, Additional District Judge, Malir and Senior Civil Judge, Malir Karachi are set-aside. Application for unconditional withdrawal of the original suit shall stand dismissed;**

(ii) *The original suit is restored to its original number;*

(iii) The first set of LRs i.e. the petitioners etc. shall be transposed as the plaintiffs of the original suit. As respondents Nos. 1 to 8 had unconditionally withdrawn the suit, they shall be allowed by the trial Court option to continue as the co-plaintiffs or otherwise as the defendants in the original suit. The learned trial Court shall accordingly receive an amended plaint and proceed there from.

(iv) *The learned trial Court shall decide all the pending applications within a period of two months after receipt of the amended plaint;*

(v) *The suit shall also be finally decided within a period of seven months after receipt of the amended plaint;*

(vi) *The learned trial Court or the relevant Court, on hearing the parties, shall consider either staying the suit(s) filed by the parties in respect of the subject matter of the original suit or a part thereof, under section 10 CPC or consolidating the same with the original suit, in accordance with law, equity and justice. Any of the parties may file application(s) thereto take steps necessary to facilitate such decision by the Court.*

(vii) *Till decision by the learned trial Court on (vi) above, the proceedings in the suits filed by the parties on the subject matter of the original suit shall remain stayed in the meanwhile."*

27. During this period the Defendant No.2 issued a Corrigendum Order No.03-16-02/SO-1/161 dated 7 October 2010, and **whereby the names of all the legal heirs of the (late) A.M Qureshi** were to be indicated in the Order No.PS/MBR/LU/543/96 dated 10 April 1996 in respect of 24 Acres and 30½ Ghuntas. Various persons i.e. Mst. Hajyani Khatija & another, who had purportedly purchased that portion of the Said Property, first maintained Suit No. 1094 of 2010 to challenge the Corrigendum Order No.03-16-02/SO-1/161 dated 7 October 2010 and which was dismissed on 29 June 2010. They thereafter presented Suit No.1539 of 2010 impugning the same Corrigendum Order No.03-16-02/SO-1/161 dated 7 October 2010 and in which they maintained CMA No.10240 of 2010 seeking injunctive relief and which application was dismissed on 20 May 2011. Suit No. 1539 of 2010 was dismissed as withdrawn on 18 August 2022 and where after Suit No. 940 of 2022 in respect of 24 Acres and 30½ Ghuntas of the Said Property has once against been maintained and which is pending adjudication.

28. Civil Transfer Application No. 59 of 2010 was maintained and which was allowed on 15 August 2011 and this suit was transferred back to this Court.

29. Three Applications were maintained by the Defendant No. 11 (c) to (f) as hereinunder:

- (i) CMA No. 2593 of 2010 being an application under Order VI Rule 16, 17 and 18 of the Code of Civil Procedure, 1908 with the prayer that all amendments made to the original plaint should be struck off and the original plaint should be restored;
- (ii) CMA No. 2592 of 2012 being an application under Order I Rule 10 of the Code of Civil Procedure, 1908 seeking transposition of the Defendants No. 11 (c) and (f) as Co-Plaintiffs; and

- (ii) CMA No. 11895 of 2013 being an application under Order I Rule 10 of the Code of Civil Procedure, 1908 seeking transposition of the Defendants No. 11 (a) and (b) as Co- Plaintiffs.

Each of the applications were allowed on 26 September 2014 on the ground that the amended plaint filed by the Plaintiffs on 2 September 2010 was not found to be consonance with the Order dated 3 June 2010 of the Supreme Court of Pakistan in CPLA No. 29 of 2009 and thereafter the amended plaint was struck off by the Court. HCA No. 292 of 2014 was preferred before a Division Bench of this Court and which was allowed on 26 September 2014 and the order dated 26 September 2014 was simply set aside.

30. Mst. Murad Bibi and others maintained a new Suit bearing Suit No. 733 of 2012 before this court seeking a declaration as towards their title over 70 Acres of land which is comprised in the Said Property. This Suit is pending adjudication.

31. Mst. Hajyani Khatija & another, during the subsistence of Suit No. 1539 of 2010 had maintained an application seeking to revise the Corrigendum Order No.03-16-02/SO-1/161 dated 7 October 2010 under Section 164 of the Sindh Land Revenue Act, 1967 and which was allowed on 22 March 2016 **and which patently seems to be in violation of the order dated 22 November 1981 passed by this court directing the parties to maintain status quo**. CP No. D-1879 of 2016 was maintained impugning the order dated 22 March 2016 and which was disposed of on 28 September 2022 with directions to approach the appropriate forum to challenge that order. A Review Application bearing No. 479 of 2022 was maintained under Section 7 of the Sindh Board of Revenue Act, 1957 against the order dated 22 March 2016 passed in SROA No. 4805 of 2015 and which was allowed on 23 December 2022 and which set aside that order.

32. It seems that during the pendency of this Suit the Defendant No. 9 maintained CMA No. 6221 of 2018 under Order 1 Rule 10 to be transposed as a Plaintiff and which application was dismissed on 31 August 2018. Thereafter it seems that the Defendant No. 9 has passed away and where after CMA No. 2021 of 2021 was maintained to implead his legal representatives as co Plaintiffs and which application was allowed on 13 July 2022. HCA No. 274 of 2022 was filed as against this Order and which was dismissed on 22 November 2022. CPLA No. 37-K of 2023 has been maintained before the Supreme Court as against the Order dated 274 of 2022 passed in HCA No. 274 of 2022 and which is pending adjudication.

33. These are the facts that have led up to the hearing of these applications which will now deal with in turn,

E. Injunction Application Under Order XXXIX Rule 1 and 2 Read with Section 151 of the Code of Civil Procedure, 1908

34. **CMA No. 4038 of 2015** has been maintained by the Defendants No. 11 (a) to (f) under Order XXXIX Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 seeking directions be given to the Plaintiffs to maintain status quo in respect of the Said Property alleging that the Plaintiffs were intending to sell the Said Property.

35. It is clarified that CMA No. 3180 of 1979 being an application under Order XXXIX Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 was maintained by the Plaintiffs and on which application interim injunctive orders were passed and which were confirmed on 22 November 1981 directing the parties to maintain status quo and which order is equally binding on the Plaintiffs and which were reconfirmed on 11 December 2001 and 13 May 2002. The relief being sought in this Application having already been granted, I consider that this application to be misconceived and **CMA No. 4038 of 2015 is hence dismissed.**

F. Application under Section 151 of the Code of Civil Procedure, 1908

36. **CMA No. 3809 of 2013** has been maintained by the Plaintiff No. 3 seeking to recall the order dated 21 March 2013 that had been passed on CMA No. 3560 of 2010 by clarifying that the Plaintiff No. 3 had never surrendered his undivided share in 114 Acres and 13 ½ Ghuntas of the Said Property to the Province of Sindh and which order should be read solely in the context of the rights of the Plaintiff No. 1 and the Plaintiff No. 2.

37. It is contended that the Plaintiff No. 1 and the Plaintiff No. 2 had sought permission to "in effect" amend the interim order to allow them to surrender their undivided share in 114 Acres and 13 ½ Ghuntas of the Said Property to the Province of Sindh. The application was without prejudice to the rights of the Government of Sindh allowed by consent. The Plaintiff No. 3 contends that while the application was moved on his behalf he never sought such an order from the Court and which order, as it reflects to have been passed in favour of all Plaintiffs, can be clarified so as to exclude him.

38. Despite notices being issued no counter affidavit has been filed by any person to the affidavit in support of this application for the last 10 years. In the circumstances, while to my mind the courts order dated on 21 March 2013 on

CMA No. 3560 of 2010 itself would not amount to a surrender of rights by the Plaintiff and would only amount to a variation of the interim order to permit them to surrender their rights, **CMA No. 3809 of 2013 is allowed** and it is hereby clarified that the order dated 21 March 2013 that was passed on CMA NO. 3560 of 2010 would be applicable to the Plaintiff No. 1 and the Plaintiff No. 2 and not be applicable to the Plaintiff No. 3.

G. Order 1 Rule 10 of the Code of Civil Procedure, 1908

39. There are three applications which need adjudication each of which are maintained under Order 1 Rule 10 of the Code of Civil Procedure, 1908.

40. **CMA No. 6209 of 2002** maintained by the Defendants No. 8 to 11 seeking to strike off the names of the Defendant No. 5 (Capital Cooperative Housing Society Limited) and the Defendant No. 7 (Mr. Manzar Hussain Kazmi) from these proceedings on the ground that:

- (i) the allotment that had been made in favour of Capital Cooperative Housing Society Limited had been cancelled vide Order No.PS/MBR/LU/1647 dated 25 May 1992;
- (ii) as Rizvia Cooperative Housing Society Limited had been struck off as a party to these proceedings, Mr. Manzar Hussain Kazmi who derived his right to his property through Rizvia Cooperative Housing Society Limited should also be struck off in like manner.

41. I have considered the contentions of the Defendant No. 8 to 11 and some of whom have since been transposed as the Plaintiffs in this suit and the contentions of Mr. Mureed Ali Shah who appears on their behalf. It is in effect contended that the Capital Cooperative Housing Society Limited had been allotted land by the Defendant No. 2 that overlapped with the Said Property and who had maintained CMA No. 931 of 1982 which was allowed by this Court on 5 October 1982. While their rights to their allotment were sub-judice in these proceedings, the Defendant No.2 vide Order No.PS/MBR/LU/1647 dated 25 May 1992 cancelled the land granted to Capital Cooperative Housing Society Limited. It seems that no challenge has been made by Capital Cooperative Housing Society Limited to the Order No.PS/MBR/LU/1647 dated 25 May 1992 and which would in effect mean that they would no longer have any rights to the Said Property. However keeping in mind that the Plaintiffs have sought a declaration of their title to the Said Property and which would involve an adjudication as to what the impact of the allotment to Capital Cooperative Housing Society Limited

would have been and also as to the legality of Order No.PS/MBR/LU/1647 dated 25 May 1992, I am of the opinion that Capital Cooperative Housing Society Limited should not be struck off as the adjudication of the right, title and interest of the Plaintiff to the Said Property would have an impact on them and which should finally be determined in this *lis*.

42. Mr. Manzar Hussain Kazmi, claims to be an allottee of Rizvia Cooperative Housing Society Limited and who contends that he has been allotted a portion of the Said Property by Rizvia Cooperative Housing Society Limited. It is not in dispute that Rizvia Cooperative Housing Society Limited had maintained CMA No. 8393 of 1988 to be impleaded as a Defendant in this Suit on the basis of the fact that they had been allotted land by the Defendant No. 2 which overlapped with the Said Property and which application was allowed on 22 February 1989. Premised on Rizvia Cooperative Housing Society Limited being impleaded as a Defendant, Mr. Manzar Hussain Kazmi maintained CMA No. 5684 of 1996 to be impleaded as a Defendant and which application was allowed on 27 November 1997. CMA No. 5 of 1997 was maintained by Rizvia Cooperative Housing Society Limited stating that on the basis of the documentation that had been produced by the Defendant No. 2 it was clear that the allotment made to Rizvia Cooperative Housing Society Limited did not physically overlap with the Said Property and on the basis of which CMA No. 5 of 1997 was granted. It is contended that as the application of Rizvia Cooperative Housing Society Limited had been allowed and who have since been struck off as Defendants in this Suit, similarly, Mr. Manzar Hussain Kazmi who derives his title from Rizvia Cooperative Housing Society Limited should also be struck off as a Defendant.

43. I have considered the contentions of the Defendant No. 8 to 11 and who since been transposed as the Plaintiffs in this suit indicated and the contentions of Mr. Mureed Ali Shah who appears on their behalf. I am concerned that without adducing evidence entitlements of persons are being determined on interlocutory applications in this Suit to the Said Property. Keeping in mind that the demarcation of the Said Property has not been made and the exact location of the Plaintiff or for that matter Rizvia Cooperative Housing Society Limited property has as of yet not been finally determined I am of the opinion that the name of Mr. Manzar Hussain Kazmi should not be struck off as a Defendant as the adjudication of the right, title and interest of the Plaintiff to the Said Property would have an impact on him and which should finally be determined in this *lis*. **CMA No. 6209 of 2002 is hence dismissed.**

44. **CMA No. 2592 of 2012 and CMA No. 11895 of 2013:** These are two applications each maintained under Order I Rule 10 of the Code of Civil Procedure 1908 whereby the Defendants No. 11 (a) to (g) seek to be transposed

as Co-Plaintiffs in this Suit pursuant to the order dated 3 June 2010 passed by the Supreme Court of Pakistan in CPLA No. 29 of 2009. Both these applications were allowed on 26 September 2014 on the ground that the amended plaint filed by the Plaintiffs on 2 September 2010 was not found to be consonance with the order dated 3 June 2010 passed by the Supreme Court of Pakistan in CPLA No. 29 of 2009 and by which order the amended plaint was struck off by the Court. HCA No. 292 of 2014 was preferred before a Division Bench of this Court and which was allowed on 25 September 2019 in the following terms:

“ ... *It is for these reasons though our short order dated 25.09.2019 the instant High Court Appeal was allowed, setting aside the impugned order. The learned Single Judge to proceed to hear and decide any remaining pending applications in the prescribed period of two months and to finally decide the suit within seven months as per the orders of the Hon'ble Supreme Court dated 03.06.2010.*”

While the order dated 25 September 2019 passed in HCA 292 of 2014 set asides the order dated 26 September 2014 it makes no adjudication as to the status of the applications impugned i.e. whether they were allowed or dismissed. That being the case and the order dated 25 September 2014 being set aside it would seem that they need to be heard *de novo*.

45. Mr. Mureed Ali Shah has opposed these applications arguing that:

- (i) The Defendants No. 11 (a) to (g) (who were at that time arrayed as Plaintiffs) maintained an application under Order 23 Rule 1 of the Code of Civil Procedure, 1908 for conditional withdrawal of this Suit and simultaneously also maintained Suit No. 1155 of 2008 before this court in respect of the balance 112 Acres of the Said Property. As a statement seeking unconditional withdrawal of the Suit was thereafter filed and on the basis of which the Court on 24 March 2007 dismissed Suit No. 116 of 2006 (Old Suit No. 709 of 1993) as withdrawn, the Defendants No. 11 (a) to (g) have hence lost their right to maintain this *lis*;
- (ii) That the interests of the Defendants No. 11 (a) to (g) are divergent from the Plaintiffs as they have maintained Suit No. 1155 of 2008 in respect of 112 Acres of the Said Property and who do not claim their share of the entire Said Property.

45. I have considered the arguments advanced by Mr. Mureed Ali Shah. It seems that in the context of all that has transpired during the pendency of this Suit, sight has been lost that the claim that was maintained by Mr. A.M. Qureshi was as to his personal right to the Said Property. On his demise, all his legal

heirs have a right to be impleaded as his legal representatives in this Suit so as to claim to their undivided share in the Said Property. While Mr. Mureed Ali Shah is correct in stating that the Defendants No. 11 (a) to (g) had filed a statement to withdraw this suit unconditionally and which had been allowed, it is to be noted that the Supreme Court of Pakistan in CPLA No. 29 of 2009 had ordered that:

“ ... (i) *The impugned orders dated 10.09.2008, 26.07.2007 and 24.03.2007 respectively passed by High Court of Sindh, Karachi, Additional District Judge, Malir and Senior Civil Judge, Malir Karachi **are set-aside. Application for unconditional withdrawal of the original suit shall stand dismissed.** ...*

(iii) *The first set of LRs i.e. the petitioners etc. shall be transposed as the plaintiffs of the original suit. As respondents Nos. 1 to 8 had unconditionally withdrawn the suit, they shall be allowed by the trial Court option to continue as the co-plaintiffs or otherwise as the defendants in the original suit. The learned trial Court shall accordingly receive an amended plaint and proceed there from.”*

To my mind once the orders are set aside and the application for unconditional withdrawal was dismissed, the parties revert to the same position that existed i.e. that as Plaintiffs. Further as per the order an “option” was given to the Defendants No. 11 (a) to (g) to continue as Co-Plaintiffs or defendants and which by these application they have clearly exercised to become Co-Plaintiffs. **CMA No. 2592 of 2012** and **CMA No. 11895 of 2013** are therefore allowed.

H. Applications under Order 6 Rule 17 of the Code of Civil Procedure, 1908

46. **CMA No. 14226 of 2013**: This Application has been maintained by the Defendants No. 10 (a) to (g) praying for this Court to give directions to the Plaintiff to amend his plaint. Order VI Rule 16 and Rule 17 of the Code of Civil Procedure, 1908 read as hereinunder:

“ ... 16. *The Court may at any stage of the proceedings order to be struck out or amended any matter in any pleading which may be unnecessary or scandalous or which may tend to prejudice, embarrass or delay the fair trial of the suit.*

17. *The Court may at any stage of the proceedings allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.”*

As can be seen under Order VI rule 16 of the Code of Civil Procedure 1908 this Court has the power to direct pleadings to be struck off or amended and which is limited to the situation where the pleadings are “unnecessary” or “scandalous” or which may “prejudice embarrass or delay the fair trial of the suit”. These powers should be contrasted with the powers of this Court under Order VI Rule 17 of the Code of Civil Procedure, 1908 which can only be maintained by a party to amend

“his” pleadings. It would therefore follow that while under Order VI Rule 16 of the Code of Civil Procedure, 1908 an application could be moved to amend an opponent’s pleadings, the provisions of Order VI Rule 17 of the Code of Civil Procedure, 1908 can only be invoked to amend one’s own pleadings. The application having been moved by the Defendant to amend the Plaintiff’s pleadings have therefore been maintained under the wrong provision of the Code of Civil Procedure 1908.

47. Be that as it may, I am not minded to resort to technicalities when deciding an application and will as such treat this as an application as one under Order VI Rule 16 of the Code of Civil Procedure, 1908. I have therefore considered this application and do not find any contention that has been maintained by the Defendants No. 10 (a) to (g) in this Application or in the Affidavit in support of this Application whereby the pleadings that are currently contained in the Plaint would be considered as either “unnecessary” or “scandalous” or which may “prejudice embarrass or delay the fair trial of the suit”. The amendments sought are to amend the prayers of the Suit and which therefore directly affect the merits of the suit and which cannot therefore be sustained. **CMA No. 14226 of 2013 being misconceived is therefore dismissed.**

48. **CMA No. 17768 of 2023:** This Application has been maintained by the Plaintiffs seeking to make the following amendments in the Plaint:

(i) Paragraph 74 A to be inserted as follows:

“ ... *That after the restoration of lease to the extent of 24 -30 1/2 Ghuntas out of 250 Acres situated in the Naiclass 21 of Deh Doozan, Tapo Songal, Scheme 33, Sector 36/A, District East, Karachi in favour of legal heirs of late A.M. Qureshi and their names are mutated in Deh Form 11 it is necessary to modify status quo order which may remain operative in respect of the remaining area of 225-9 ½ Acres of land Naiclass 21 of Deh Doozan, Tapo Songal, Scheme 33, Sector 34/A , Sector 34/B, 34/B, 35/1 and 35/B District East, Karachi Copies of the Corrigendum Order dated 07.10. 2010 and Deh Form II dated 08.06. 2011 are **Annex as R/1 & R/2***”

(ii) Prayer Clause (a) to be substituted as follows:

“ ... *Declaration that the lease in respect of 225-9 ½ Acres situated in Naiclass 21 of Deh Doozan, Tapo Songal, Scheme 33, Sector 34/A , Sector 34/B, 34/B, 35/1 and 35/B Taluka and District East, Karachi is still subsisting in favour of the Plaintiffs on the basis of the statement dated 07.02.1995 filed by the Assistant Advocate General Sindh on behalf of the Defendant No. 1,2 &3. (Annexure N/3).*”

49. It would be necessary to clarify the facts before proceeding to decide this application. Mr. A. M. Qureshi was on 14 October 1963 allotted the Said property and a Sanad was issued by the Province of Sindh on 14 January 1965

in favour of Mr. A.M Qureshi and physical possession of the Said Property vested with him

50. On 5 December 1970 the Deputy Commissioner passed an order cancelling the allotment of the Said Property. An Appeal was preferred before the Revenue Commissioner and on 18 December 1972 the order of the Deputy Commissioner was set aside and the allotment of the Said Property was restored in favour of Mr. A.M. Qureshi.

51. On 7 January 1976 the Deputy Commissioner once again cancelled the allotment of the Said Property.

52. This Suit was maintained before this Court on 20 August 1979. Along with the Suit, it is contended that Mr. A.M Qureshi presented CMA No. 3180 of 1979 being an application under Order XXXIX Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 and on which application interim injunctive orders were passed and which were confirmed on 22 November 1981 directing the parties to maintain status quo.

53. Various persons on the basis of allotments made in each of their favourclaims to the Said Property and which allotments were eventually cancelled by the Province of Sindh, it would seem primarily on account of the fact that there was a status quo order over the Said Property that had been passed by this Court on 22 November 1981 and which allotments had been made by the Defendant No. 2 in violation of that order.

54. It would seem that after the demise of A.M. Qureshi on 22 June 1989, the Defendants No. 11 (a) to (g) being the legal heirs of A.M. Qureshi through his second wife Begum Hafiuznissa Qureshi, perpetuated what to my mind is clearly a fraud on the Plaintiffs and the Defendant No. 8 who were the legal heirs of A.M. Qureshi through his first wife Kulsoom Bibi and potentially the Defendant No. 9 by failing to disclose to this Court that they were also legal heirs and who should have been impleaded as Plaintiffs. Instead the Defendants No. 11 (a) to (g) suppressed this information and had only themselves arrayed as Plaintiffs.

55. On 7 February 1995 the Defendants No. 1 to 3 i.e. the Province of Sindh filed a statement in Suit No.661 of 1979 & Suit No.709 of 1993 that land granted to Mst. Murad Bibi etc, Mst. Noor Bibi etc and Capital Cooperative Housing Society Limited had been cancelled and restored the original allotment Order dated 14 October 1963 in favour of Mr. A.M. Qureshi thereby recalling the order dated 7 January 1976 passed by the Deputy Commissioner once again cancelling the allotment of the Said Property. To my mind on the basis of that

statement the cause that had occurred to Mr. A.M. Qureshi to maintain this *lis* had been satisfied and this Suit should have thereafter abated.

56. The purpose for proceeding in this manner becomes apparent when one considers the next sequence of actions that were taken by the Government of Sindh and by the Defendants No. 11 (a) to (g). Keeping in mind that the Said Property had been allotted for an amenity use i.e. of a school and which would have less value as compared to say residential commercial or industrial properties, the Defendants No. 11 (a) to (g) decided to surrender their rights to 24 Acres 30 ½ Ghuntas of land of the Said Property in favour of the Province of Sindh. This surrender was premised on the benefit to be received by the Defendants No. 11 (a) to (g) i.e. that in exchange for surrendering their rights they would be “compensated” by being allotted 24 Acres 30 ½ Ghuntas of land which would be allotted on a residential cum commercial basis and which would be allotted in their names alone for them to dispose at their own free will and which they purportedly did.

57. While this “scheme” could have been implemented by simply withdrawing the suit, it seems that there was a trust deficit as between the Defendants No. 11 (a) to (g) and the Province of Sindh which compelled them to maintain CMA No. 2956 of 1996 before this Court to vary the interim order, allow the Province of Sindh to maintain their Counter Affidavit in effect conceding to the “scheme”, varying the interim order and thereafter getting the re-allotment of 24 Acres 30 ½ Ghuntas made to Defendants No. 11 (a) to (g) as residential cum commercial property which was far more valuable than an amenity plot for a school.

58. On account of the fact that the existence of the other legal heirs i.e. the Plaintiffs had been suppressed, this Court was none the wiser and which allowed this Application on 4 July 1996 and 9 July 1996. Having succeeded on one application, the Defendants No. 11 (a) to (g) chanced their arm by maintaining CMA No. 4720 of 1996 and which application was also allowed on 6 October 1996.

59. There is however one issue which negates the scheme of the Province of Sindh and the Defendants No. 11 (a) to (g). While the Defendants No. 11 (a) to (g) may have purportedly surrendered their rights to the Said Property, this cannot amount to a surrender of the undivided share that all the other legal heirs i.e. the Plaintiffs, the Defendant No. 8 and possibly the Defendant No. 9 had in the Said Property and which to my mind would still subsist. I am also at a loss to understand as to under what provision of law the allotment was made directly in favour of the Defendants No. 11 (a) to (g). Finally, keeping in the mind the provisions of Section 3 of the Sindh Urban State Land (Cancellation of

Allotments, Conversions and Exchanges) Ordinance, 2001 clearly such allotment would stand cancelled and would have to be regularised under that statute and which could not be done on account of the subsistence of the interim injunctive order that continues to operate in this Suit over the Said Property and attempt seems to have been undertaken when the suit was withdrawn.

60. In this context Mr. Murreed Ali Shah has maintained this Application on behalf of the Plaintiffs and has contended that as on 10 April 1996 the Defendant No.2 in the circumstances as clarified, restored the lease to the extent of 24 Acres 30½ Ghuntas out of the Said Property and mutated the names of the Defendants No.11(a) to (g) in their record as the owners of that property, he contends that while the status quo order that was initially granted was varied in respect of 24 Acres 30 ½ Ghuntas to allow for that allotment, the interim injunction that exists should continue to subsist for the remaining area of 225 Acres 9½ Ghuntas of the Said Property. He further contended that on account of the additional cause that has occurred post the institution of the suit i.e. the suppression of fact that the Plaintiffs, the Defendant No. 8 were legal heirs of A.M Qureshi having rights in the entire Said Property and so as to determine the rights of each of the parties amendments to Prayer Clause (a) are necessitated as it is also necessary to maintain a claim to the undivided share of the Plaintiffs and the Defendant No. 8 in the 24 Acres 30½ Ghuntas that was comprised in the Suit Property and which it was essential to reflect in the amended plaint.

61. He contends that under Order VI, Rule 17 of the Civil Procedure Code, this Court can consider amendments to be made to pleadings at any stage of the proceedings and which can be allowed unless the proposed amendment would change the complexion of the suit. He argued that after the surrender of rights and the restoration of the lease to the extent of 24 Acres 30½ Ghuntas out of the Said Property in favour of the Defendants No. 11 (a) to (g) and which was effected by the modification of the status quo order that was passed on 7 July 1996 and 9 July 1996 the rights of the Plaintiffs and the Defendant No. 8 were affected by the actions of the Defendants No. 11 (a) to (g) and for which he presses this application. He relied on a decision of the Supreme Court of Pakistan reported as **Mst. Ghulam Bibi & Others. Vs. Sarsa Khan & Others**² which forwards the principle that amendments to pleadings may be permitted to reflect the evolving circumstances of a case.

62. I am inclined to grant this application. This suit as originally framed was filed by Mr. A.M. Qureshi seeking a declaration as to the title of the Said Property and to set aside an order dated 7 January 1976 passed by the Deputy

² PLD 1985 SC 345

Commissioner cancelling the allotment of the Said Property. Prima facie that order was set aside by the Defendant No. 2 and which is reflected in the statement dated 7 February 1995 that was filed by the Defendant No. 2. While to my mind the suit should have abated on the basis of that statement, the failure on the part of the Defendants No. 11 (a) to (g) to disclose the Plaintiffs and the Defendant No. 8 as being the legal heirs of the A.M. Qureshi and the collusive actions of the Defendants No. 11 (a) to (g) and the Province of Sindh to get the 24 Acres 30½ Ghuntas of the Said Property allotted into their personal names to my mind does not in any way change the **entitlement of the Plaintiffs on the basis of their being legal heirs of Mr. A. M Qureshi** to the balance 225 Acres 9½ Ghuntas of land comprised in the Said Property which still needs to be determined and which certainly does not change the complexion of the suit. While I would have thought that the Plaintiffs would also have a right to claim the undivided share in the 24 Acres 30½ Ghuntas, no amendment has been sought in respect of that portion of the Said Property and which seems to be premised on the fact that Corrigendum Order No.03-16-02/SO-1/161 dated 7 October 2010 has been issued by the Defendant No. 1 and **whereby the names of all the legal heirs of the (late) A.M Qureshi** were to be indicated in the Order No.PS/MBR/LU/543/96 dated 10 April 1996 in respect of 24-30½ Acres of the Said Property. That being said, the application being maintained nearly 28 years after the cause to maintain the application had occurred and possible 25 years after the Plaintiffs first came to know about the act may raise issues of limitation, which while being an issue in the Suit, would not bar this application from being granted. In the circumstances **CMA No. 17768 of 2023 is allowed as prayed.**

I. Applications under Order XII Rule 6 of the Code of Civil Procedure, 1908

63. **CMA No. 11800 of 2023** has been maintained by the Plaintiffs seeking for this suit to be decreed on admissions made by the Defendants. Mr. Mureed Ali Shah addressed arguments on this application and contended that the Defendants No.1 & 2 have made unequivocal / clear and unambiguous admissions in respect of the title of the Plaintiffs to the Said Property and which remain unchallenged, as no counter-affidavit has been filed by Defendants No. 1 & 2 to dispute or rebut the claims made by the Plaintiffs. Relying on the decision reported as **Engr. Inam Ahmed Osmani vs. Federation of Pakistan & Others**,³ he pressed for this application to being granted relying on the following admissions made by the Defendants:

- (i) On 7 February 1995 the Defendants No. 1 to 3 filed a statement in this Suit restoring the allotment order dated 14 October 1963 that

³ 2012 MLD 1132

had been made in the name of Mr. A.M Qureshi and which admission was reaffirmed by the Government of Sindh during the hearing Of CPLA No. 29 of 2009 and at which time an opinion of the Law Department was issued clarifying that:

“ ... *“11. That in order to maintain stay order, Government of Sindh Land Utilization Department vide Order No.PS/MBR/LU/478/95 dated 30.01.1995 through Assistant Advocate General, Sindh, filed statement dated 07.02.1995 in Sui No.661 of 1979 and Suit No.709 of 1993 stating therein that the original allotment order in favour of Mr. AM Qureshi dated 14.10.1963, shall hold good on same terms and conditions.”*

- (ii) The Defendant No.2 had filed a Counter Affidavit to CMA-6705 of 2 in Suit No.733 of 12, the relevant paragraph is reproduced as under:

“ ... *6. That in order to maintain stay order passed in Suit No.661/79 the Defendant No.2 vide order dated 30.01.1995 filed statement dated 07.02.1995 in said suit, stating therein the original allotment order in favour of Mr. AM Qureshi dated 14.10.1963, shall hold good on same terms and conditions.”*

- (iii) The Defendant No.2 had filed a Counter Affidavit / Parawise Comments in CP No.D-1879 of 16, paragraph 5 of which made clear admissions and which are reproduced as under:

“ ... *5.That the contents of Paragraph No.6 are not denied being a matter of record. It is submitted that the land proposed in favour of Mst. Murad Bibi, Noor Bibi & Others was forming part of 250 Acres which was granted to Mr. AM Qureshi. This Hon'ble Court had declared the said order in violation of the stay order already granted by Court and thus recalled the said order as reported under **PLD 2010 SC 913**. Thereafter, the then Secretary Land Utilization had cancelled / withdrawn the said allotments as well as other allotments in order to maintain status quo position and restored the Original Allotment dated 14.10.1963 in favour of Mr. AM Qureshi.”*

- (iv) Review Application No. 479 of 2022 was allowed by the full board of the Board of Revenue and in which admissions were made and which read as hereinunder:

“ ... *Moreover, in order to maintain stay Order, Government of Sindh Land Utilization Department vide Order No.PS/MBR/LU/478/95 dated 30.01.1995 through Assistant Advocate General, Sindh, filed Statements dated 07.02.1995 in Suit No.661/1979 (A.M Qureshi thru LRS. Vs. Deputy Commissioner East & Ors.) and Suit No.709/1993 (Mst. Murad Bibi & Ors. Vs. Government of Sindh & Ors.), stating therein that the original allotment Order in favour of Mr. A.M Qureshi dated 14.10.1963 shall hold good on same terms and conditions. It may be added that the total area under dispute in the above Suit No.661/1979 is 250 Acres which is allegedly claimed by some persons and are cancelled till today, thus total area so far committed under dispute/court litigation works out to be 224-09½ Acres leaving the balance 24-30½ Acres which is not disputed. Furthermore, that M/s. Mrs. Seema Rasool Unar, Akber Qureshi, Sabir Qureshi, Tariq Qureshi, Mrs. Shahida Aftab and Begum Hafeezunisa being legal heirs of late A.M Qureshi have requested the competent*

authority for allotment of 24-30½ Acres for residential commercial purposes. The Government of Sindh Land Utilization Department allowed 24-30½ Acres in the same un-surveyed block of 250 Acres vide Order No.PS/MBR/LU/543/96 dated 10.04.1996 to compensate old claim of late AM Qureshi by giving this area to the legal heirs of late AM Qureshi subject to modification of the status quo Order operating in Suit No.661/1979 to that extent.”

64. Mr. Aley Maqbool Rizvi, Additional Advocate General Sindh appeared and has confirmed both the veracity of the statement dated 7 February 1995 that had been submitted by the Defendant No. 1 to 3 as well as to the decision dated 23 December 2012 passed on Review Application No. 479 of 2022 by the Board of Revenue and also conceded as to the various illegal allotments that had been made over the Said Property from time to time in violation of the interim injunctive order which continues to be operative in this Suit. Mr. Danish Saeed who was a member of the Full Board and who had also passed the order dated 23 December 2012 on Review Application No. 479 of 202 on court notice appeared before this Court and also confirmed that order.

65. I have considered the arguments raised by Mr. Mureed Ali Shah and the contentions as recorded of Mr. Aley Maqbool Rizvi, Additional Advocate General Sindh. The statement dated 7 February 1995 that had been submitted by the Defendant No. 1 to 3 and on the basis of which it is contended that the allotment dated 14 October 1963 has been restored, to my mind does not entitle the Plaintiff to have the suit decreed, rather it would render the cause that had accrued in favour of Mr. A.M. Qureshi to maintain this suit as having abated rendering the suit as having become infructuous. Clearly, this by itself would preclude such an application from being granted.

66. There are however numerous other issues which need to be answered. If it is contended that the allotment dated 14 October 1963 has been restored, then the Plaintiffs, the Defendant No. 8 and potentially the Defendant No. 9 would have a right, title and interest to their undivided share in the entire 250 Acres as they never “surrendered” such rights to the Province of Sindh. Conversely, the Defendants No. 11 (a) to (g) having surrendered their undivided share to 24 Acres -30½ Ghuntas it would still have to be seen as to whether or not such a surrender of such rights had to be done in accordance with law so as to legally divest them of their share in the Said Property. Similarly, it would also have to be considered as to whether the allotment that was made by the Defendants No. 1 to 3 to the Defendants No. 11 (a) to (g) had been legally made i.e. pursuant to what law or even as to whether such transaction should be vitiated and if so as to what the rights of the Defendants No. 11 (a) to (g) in the Said Property would be. Similarly, in respect of the Defendant No. 9, his claim that he was a legal heir of the (late) A.M. Qureshi, and on account of which his legal heirs would well have a

right to be impleaded as a Co-Plaintiffs, still remains to be adjudicated in CPLA No. 37-K of 2023. It is also to be noted that CMA No. 3560 of 2010 had been maintained whereby the Plaintiff and the Defendant No. 8 had also “surrendered” their rights to a portion of the Said Property and which application was granted by this Court on 21 March 2013 and which also necessitate those rights being determined. Regarding third parties who claim title over the Said Property i.e. the Capital Cooperative Housing Society, the Defendants No. 10 (a) to (g) and Mr. Manzar Hussain Kazmi those too cannot be determined summarily and whose rights would also be required to be determined i.e. as to whether or not the restoration of the allotment dated 14 October 1963 that had been confirmed by the Defendant No. 1 to 3 under cover of the statement dated 7 February 1995 had been made correctly or incorrectly. On account of the pendency of each of these issues which need to be determined, this application cannot be granted.

67. For the foregoing reasons there not being a clear admission in any of the documents that would resolve all the issues that exist in this Suit, I am of the opinion that **CMA No. 11800 of 2023 is therefore dismissed.**

J. Application under Section 151 of the Code of Civil Procedure, 1908 read with Sub-Section (2) of Section 12 of the Code of Civil Procedure, 1908

68. CMA No. 11276 of 2023 has been maintained by the Plaintiffs seeking to set aside the order 13 July 2022 that had been passed by on CMA No. 2021 of 2021 and whereby directions had been given to implead the legal heirs of the Defendant No. 9 as Plaintiffs. HCA No. 274 of 2022 had been maintained by the Plaintiffs as against that order and which was dismissed on 22 November 2022 and against which CPLA No. 37-K of 2023 is pending before the Supreme Court of Pakistan. It seems that the Plaintiffs wish to maintain this application on the following grounds:

- (i) CMA No. 2021 of 2021 has been maintained after the period prescribed in Article 176 and Article 177 of the First Schedule of the Limitation Act, 1908 had expired and consequentially the application was barred under Section 3 of the Limitation Act, 1908;
- (ii) that the paternity of Muhammad Hussain Qureshi was decided in Suit No. 756 of 1998 and which issue is now pending adjudication in HCA No. 67 of 2007; and
- (iii) that there were various errors that existed in the order sheet that showed that the matter was listed for hearing on 6 April 2022 but

there is no signed order of the learned judge confirming the hearing the suit on that date.

69. Mr. Mureed Ali Shah reiterated the objections stated hereinabove and contended that the order dated 13 July 2022 should be recalled. I have considered his arguments and am not inclined to recall the order.

70. In HCA No. 274 of 2022 the grounds that were maintained by Mr. Mureed Ali Shah for appealing the order dated 13 July 2022 were indicated in that Appeal as hereinunder:

“ ... A. *That impugned order is completely arbitrary, capricious, unlawful, misinterpretation of Compromise Decree dated 27.01.2022 passed in HCA No.73 of 2007 (Tariq Qureshi & another Vs. Mrs. Afroze Shah & others) and Order dated 25.09.2019 passed in HCA No.292/2014.*

B. *That impugned order is erroneous in law and on facts and has been passed without applying judicial mind as Appellant & Others filed Suit No.756/1998, inter alia, for cancellation of oral gift dated 20.05.1975 allegedly made by the deceased A.M. Qureshi in favour of Respondents No.10(b,c,d,e,f,h). Such suit was decreed, and declared Appellant, Respondents No.8, 10(a to h) and 11 are legal heirs of late A.M Qureshi except the Shaikh Muhammad Hussain (Respondent No.9), entitled to inherit the Subject Property according to Quranic shares (Sunni Hanafi Fiqah).*

C. *That the learned Single Judge failed to appreciate the fact that Shaikh Muhammad Hussain (Respondent No.9) filed HCA No.67 of 2007 against Judgment and Decree passed in Suit No.756/1998, which is pending adjudication.*

D. *That the Impugned Order of the learned Single Judge is against the material available on record as learned Counsel for the Appellant/Plaintiff is on GENERAL ADJOURNMENT from March 17, 2022 to August 1, 2022.*

E. *That the learned Single Judge failed to appreciate the fact that without appreciating the averments of the Appellant made in her Counter Affidavit which containing details of the facts and the impugned order is passed without considering the Counter Affidavits, when no affidavit-in-rejoinder was filed.*

F. *That the Impugned Order passed by the learned Single Judge is against the direction given by the Hon'ble Division Bench in HCA No. 292/2014,*

G. *That the learned Single Judge failed to apply its judicial mind to the various aspects of the case which resulted into miscarriage of justice and the impugned order as such is liable to be set aside.*

H. *That the Impugned Order of the learned Single Judge is bad in law and hence the interference of this court is required thereby set aside the Impugned order of the learned Single Judge.*

I. *That on arriving at such findings the learned Single Judge has also ignored the law developed the subject matter.*

J. *That the findings of the learned single Judge if allowing to stand it would rather vary the law developed on the subject and hence miscarriage of justice.*

K. *That the impugned order is not sustainable both in law and facts of the case.*

L. That the impugned order of the learned Single Judge is barred by Section 24(A) of General Clauses Act as the same is not a speaking order as every Court, Authority and Tribunal are bound to pass speaking order.

M. That a bare glance of the impugned order would reveal that the learned Single Bench has not applied its judicious mind.

N. That the order passed by the learned Single Bench is erroneous and contrary to law and is liable to be set-aside by this Hon'ble Court.

O. That the Appellant craves leave of this Hon'ble Court to urge further/additional grounds at the time of hearing of the appeal."

Interestingly the first ground that is being pleaded in this Application i.e. that CMA No. 2021 of 2021 has been maintained after the period prescribed in Article 176 and Article 177 of the First Schedule of the Limitation Act, 1908 had expired and consequentially the application was barred under Section 3 of the Limitation Act, 1908 was not raised or pressed on Appeal in HCA No. 274 of 2022 and which clearly would be a ground to maintain an Appeal. The second ground raised in this application i.e. that the paternity of the Muhmmad Hussain Qureshi was decided in Suit No. 756 of 1998 and which is now pending in HCA No. 67 of 2007 was pressed on Appeal in HCA No. 274 of 2022 and was not accepted. The final ground of Appeal i.e. that there were various errors that existed in the order sheet that showed that the matter was listed for hearing on 6 April 2022 but there is no signed order of the learned judge indicating as to what happened on the hearing of the suit on that date seems to be inconsistent with the contentions of Mr. Mureed Ali Shah as recorded in paragraph 4 of the Judgement in HCA 274 of 2022 which reads as hereinunder:

" ... *He next stated that the hearing of the said application took place on 22.2.2022, 08.3.2022 and 06.4.2022, however he was on general adjournment from 17.3.2022 to 04.4.2022. He therefore, in the end prayed that since the learned single Judge has passed the order without proper application of mind, this HCA may be allowed by setting aside the order of the learned single Judge."*

It seems to me that having not succeeded in the Appeal to set aside the order dated 13 July 2022, an attempt is now being made to set aside the same order through this application under Sub-Section (2) of Section 12 of the Code of Civil Procedure, 1908 pleading grounds that were either raised and rejected in the Appeal or pleading grounds that were not raised and are now being raised as an afterthought or pleading grounds that are inconsistent with statements made in the Appeal. Such attempts that are now regrettably being made more often in these courts and which are not only unfortunate they border on abuse of process. I am therefore not inclined to grant this application and which is dismissed.

71. That being said, I have perused the order sheet of this Suit and note that as correctly contended by Mr. Mureed Ali Shah there is no order sheet that exists

in the Court File for 6 April 2022, however I have checked the cause list which indicates that this suit was listed on 6 April 2022 and the electronic diary sheet maintained by this Court and which indicates as hereunder:

Date	List	Sr#	CMA	Other info	Part heard	Stage	Bench	Status	Diary
08-APR-22	Daily List	5	(not set)	(At 11:00 A.M. (A/w 7 Parts & 1 R & P File (Also for hearing and issues	Part heard	For order	Justice Mrs. Kausar Sultana	Heard and reserved for Judgment	Heard and reserved for Judgment

It would therefore seem that the order sheet for 6 April 2022 has either deliberately or accidentally been removed from the court file and for which administrative orders are being passed as hereunder.

K. Applications for Contempt of Court

72. There are six applications for contempt of court that have been maintained in this Suit from time to time and which remain pending adjudication.

73. (i) **CMA No. 1679 of 1987** : This is an application maintained under Section 3 of the Contempt of Court Act, 1976 read with Order XXXIX Rule 2(3) of the Code of Civil Procedure, 1908 seeking proceedings for Contempt of Court to be instituted as against one Mr. Farhat Ali Khan the Administrator of the Capital Cooperative Housing Society Limited for violating an order dated 22 November 1981 that had been passed on CMA No. 3180 of 1979 and which had been confirmed on 22 November 1981 directing the parties to this *lis* to maintain status quo.

(ii) **CMA No. 2197 of 1996**: This is an application maintained under Order XXXIX Rule 2(3) of the Code of Civil Procedure, 1908 seeking proceedings for Contempt of Court to be instituted as against the Capital Cooperative Housing Society Limited for violating orders passed by this Court.

74. In respect of CMA No. 1679 of 1987 without dilating as to whether or Mr. Farhat Ali Khan had in fact violated the interim order dated 22 November 1981 that had been passed on CMA No. 3180 of 1979 and which had confirmed the ex

parte ad interim order 28 August 1979 directing the parties to this *lis* to maintain status quo, it is to be noted that the Defendant No. 2 has cancelled the allotment of Capital Cooperative Housing Society Limited to any portion of the Said Property by its Order No.PS/MBR/LU/1647 dated 25 May 1992. It also seems that Capital Cooperative Housing Society Limited has not challenged that order and is continuing to abide by that order subject to decision in this *lis*. In the circumstances, I am not inclined to pursue contempt proceedings as against Mr. Farhat Ali Khan and hence **CMA No. 1679 of 1987 is therefore dismissed.**

75. In respect of CMA No. 2197 of 1996, the Application does not specifically identify the names of the person against whom contempt is alleged. The Application as drafted is therefore not maintainable. **CMA No. 2197 of 1996** is therefore dismissed.

76. **CMA No. 217 of 1992** being an application maintained under Order XXXIX Rule 2(3) of the Code of Civil Procedure, 1908 seeking proceedings for Contempt of Court to be instituted as against:

- (i) Ghulam Ali Pasha, the Deputy Commissioner Karachi East and
- (ii) Mr. Ghulam Abbas Soomro the Member (Land Utilisation) Board of Revenue Sindh

for violating an order dated 22 November 1981 that had been passed on CMA No. 3180 of 1979 and which had been confirmed on 28 August 1979 directing the parties to this *lis* to maintain status quo on the basis that various allotments were made to third parties over the Said Property.

77. Without dilating as to whether the alleged contemnors had in fact violated the interim order dated 22 November 1981 that had been passed on CMA No. 3180 of 1979 and which had confirmed the ex parte ad interim order 28 August 1979 directing the parties to this *lis* to maintain status quo, it is to be noted that the Defendant No. 2 has cancelled the allotment issued to Murad Bibi and others vide its Order No.PS/MBR/LU/1647 dated 25 May 1992 and Capital Cooperative Housing Society Limited and by an Order No.PS/MBR/LU/368 dated 24 March 1994 also cancelled the land granted to Mst. Noor Bibi. In the circumstances, I am not inclined to pursue contempt proceedings as against the alleged contemnors and consequentially **CMA No. 217 of 1992 is therefore dismissed**

78. **CMA No. 9278 of 2011** is an application maintained under Section 52 of the Transfer of Property Act, 1882 read with Section 3 of the Contempt of Court

Act, 1976 and Order XXXIX Rule 2(3) of the Code of Civil Procedure, 1908 as against:

- (i) Haji Adam Jokhio
- (ii) Sabir Hussain Jokhio
- (iii) Aurangzeb Jokhi
- (iv) Omais Jokhio
- (v) Lal Muhammad
- (vi) Karim Jokhio
- (vii) Sardar Temur Khan Durrani, Cantonment Executive Officer, Cantonment Board Malir
- (ix) Mrs. Seema Rasool Uner

This applications was maintained for violation of the order dated 22 November 1981 that had been passed on CMA No. 3180 of 1979 and which had been confirmed on 22 November 1981 directing the parties to this *lis* to maintain status quo. as an allotment of a portion of the Said Property had been made over a portion of the Said Property in favour of some of the alleged contemnors. The rights of the alleged contemnors devolved from allotments that were made by the Defendant No. 1 in favour of Murad Bibi and others and Noor Bibi and others which were both cancelled.

79. Without dilating as to whether the alleged contemnors had in fact violated the interim order dated 22 November 1981 that had been passed on CMA No. 3180 of 1979 and which had confirmed the ex parte ad interim order 28 August 1979 directing the parties to this *lis* to maintain status quo, it is to be noted that as in the circumstances, I am not inclined to pursue contempt proceedings as against the alleged contemnors and consequentially **CMA No. 9278 of 2011 is dismissed.**

80. **CMA No. 11601 of 2012** being an application maintained under Article 204 of the Constitution of the Islamic Republic of Pakistan, 1973 seeking that the proceedings for Contempt of Court should be instituted as against:

- (i) Honorary Secretary Rizvia Cooperative Housing Society Limited
- (ii) Member Land Utilisation Department
- (iii) Deputy Commissioner
- (iv) Mukhtiarkar /ACSO
- (v) Commissioner Karachi
- (vi) Director General Sindh Building Control Authority
- (vii) Director Gulshan -I
- (viii) The Executive Officer, Cantonment Board Malir,

(ix) The inspector General Registration

for purportedly violating the order dated 28 August 1979, 22 November 1981, 30 September 1990, 9 March 1992, 4 September 2001, 11 December 2001 and 13 May 2002 passed on various applications from time to time including, but not limited to, an order directing the parties to the *lis* to maintain status quo.

81. In respect of **CMA No. 11601 of 2012**, the Application does not specifically identify the names of the person against whom contempt is alleged. The Application as drafted is therefore not maintainable. **CMA No. 11601 of 2012** is therefore dismissed.

82. **CMA No. 1557 of 2014** being an application maintained under Article 204 of the Constitution of the Islamic Republic of Pakistan, 1973 and whereby the Plaintiffs seek proceedings for contempt of court to be instituted as against

- (i) Khalid Goraya, Commander Bhattai Rangers,
- (ii) Major Syed Ehsan Ali Shah, Bhattai Rangers
- (iii) Ghulam Haifer Jamali, Inspector General Police
- (iv) Munir Shaikh, DIG East and Malir;
- (v) Rao Anwar, SSP District Malir
- (vi) Shoaib Ahmed SHO PS Sachal
- (vii) Faisal Awan, Incharge SHO PS Sachal,
- (viii) M.Luckman Ali, AS Duty Officer, PS Sachal
- (ix) Aftab Mirani
- (x) Fida Malah
- (xi) Himat Malah
- (xii) Madat Malah

For purportedly violating the order dated 28 August 1979, 22 November 1981, 30 September 1990, 9 March 1992, 4 September 2001, 11 December 2001 and 13 May 2002 passed on various applications from time to time including, but not limited to an order directing the parties to the *lis* to maintain status quo.

83. I have perused this Application, none of the persons against whom contempt is alleged in this application are parties to this Suit and hence I cannot see how this application is maintainable. I am hence not inclined to grant this application. **CMA No. 1557 of 2014 is therefore dismissed.**

L. Directions

- (i) On account of **CMA No. 11276 of 2023** and **CMA No. 14226 of 2013** being allowed, the Plaintiffs are directed to file an amended Plaintiff within two weeks and where after if any of the Defendants wish to file an Amended Written Statement they can move an application seeking orders from this Court. It is also directed that the expression 'defunct' as used against the KDA and the Commissioner Karachi may also be deleted. Additional Registrar is directed to indicate another Amended Plaintiff as to which of the Defendants have been debarred as declared ex-parte.
- (ii) This suit has been pending since the year 1979. While writing this order it became apparent that on account of the age of this Suit some of the documents, have torn and some have even detached from the file. The Additional Registrar is therefore directed to reconstitute the file and issue notices to the counsel for each of parties to assist in the reconstitution which should be concluded within one month.
- (iii) The sheer volume of documents that have accumulated over the last 45 years have led to the court files become very difficult to manage. The Additional Registrar is hereby directed to reorganize the files and create parts as follows:
- (a) Part 1 – This should contain the Plaintiff, Amended Plaintiffs, Amended Titles, Written Statements, Amended Written Statements and issues;
 - (b) Part 2 – Order sheets;
 - (c) Part 3 – Applications and statements. These should be arranged chronologically on the basis of the applications and arranged so that counter affidavits and rejoinders are placed after each application; and
 - (d) Part IV – Vakalatnamas, Notices, Bailiffs Reports and Nazir's Reports each of which should be arranged chronologically.

Each Part, should be divided into sub-parts of not more than 500 pages each and should be numbered and have an index on each sub-part so that it is possible to navigate through the volume of documents that have accumulated over 24 years. In addition an index should be made for each part indicating the page number of each document. Finally with respect to the Part relating to applications that have been decided, the date of the disposal of the application should also be indicated on the index.

- (iv) As clarified hereinabove despite this Suit being listed on 6 April 2022, the Order dated 6 April 2022 is not available on the court file. In fact a number of the order sheets are not chronologically arranged. It would therefore prime facie seem that the order sheets have been tampered within. Let a report be filed within three weeks by the Additional Registrar to inquire into this matter and explain as to why the order sheet is not chronologically arranged and in particular why the order dated 6 April 2022 is not on the court file and where after further orders can be passed by this Court.

Order accordingly.

JUDGE