

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
Suit No.1002 of 2009

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Date	Order with signature(s) of Judge(s)
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1. For hearing of CMA No.12976/2012 (U/o.VII Rule 11 CPC).
2. For examination of the Parties/Settlement of Issues.

03.02.2014.

Mr. Nasrullah Malik, advocate for the Plaintiff.  
Mr. Munawar Ali, advocate for the Defendant No.6.  
Mr. Ziauddin Junejo, AAG.  
Mr. Muhammad Idrees Alvi, advocate for KMC.

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1. Mr. Munawar Ali, learned counsel for the Defendant No.6 has filed this Application. The main contention is that the Suit is hit by Provisions of res-judicata. The plaintiff has not filed any counter affidavit. Learned counsel for the Defendant No.6 has drawn attention of the Court to the Annexure A/13 filed alongwith this Application, which is an order passed in Suit No.984/1993 filed by the Plaintiff and the Plaint was returned in terms of Order V Rule 10 CPC with the directions to approach the Revenue Authorities for the grievance if they have any. Learned counsel for the Plaintiff admits that this order was passed in respect of the same property against the same Defendants. However, he contends that the Revenue Authorities has been approached, but no fruitful order could be obtained by them. Learned counsel for the Defendant No.6 has also drawn attention of this Court to the Petition bearing C.P. No. 306/2012 filed as Annexure A/1. When confronted with the issue of C.P. No. 306/2012, learned counsel for the Plaintiff admits that this Petition was also filed for the same Property. This Petition was dismissed for non-prosecution and no efforts were made to get this Petition restored. Therefore, according to the learned counsel for the Defendant No.6, this

is also another proceedings and sufficient to invoke by Provisions of res-judicata.

In view of the facts mentioned above, which have also been admitted by the learned counsel for the Plaintiff, the order dated 19.4.1994 since return of plaint of identical suit filed by the plaintiff is admitted and not challenged before Higher Forum, the plaintiffs' suit is hit by law of estoppel, if not by the provision of Section 11 CPC consequently suit is not maintainable and the plaint is rejected.

JUDGE

MUBASHIR