

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 1262 of 2013

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Date	Order with signature of Judge
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1. For orders on CMA No.11218/2013 (IF GRANTED)
2. For orders on CMA No.11219/2013 (U/O 39 R 1&2 CPC)

07/10/2013:

Mr. Faiz H. Shah, Advocate for the plaintiff.  
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1. Granted.
2. Learned counsel for the plaintiff contends that Defendants No.1 to 5 jointly and severally entered into an agreement for purchase of plot of land bearing No.3-B, situated in Survey No.71, Nai Malir, Deh Dih, Tappo Drig Road, Taluka Shah Faisal Town, Karachi-East, measuring 2181.66 square yards, for a total sale consideration of Rs.20,72,57,700/- and have also paid a sum of Rs.16,37,40,065/- and obtained general power of attorney pending the payment of balance sale consideration of Rs.4,35,17,635/-. The defendants subsequently paid balance sale consideration of Rs.4,35,17,635/- through different pay orders in favour of the plaintiff but all the pay orders have been cancelled by the Defendants No.1 to 5 and substituted with post dated cheques and a clear undertaking/certificate of confirmation, which is available at page 83 of the file. The pay orders are also available on record as Annexures 'P/5' to 'P/25' to the plaint. The Defendants No.1 to 5 failed to meet their undertakings and even the cheques issued for the balance sale consideration were also dishonoured on account of insufficient funds. In the meanwhile, on the basis of power of attorney the Defendants No.1 to 5 have allegedly transferred the

suit land in favour of Defendants 1, 3, 6, 7 and 8. There is a dispute regarding the transfer of suit land without payment of full sale consideration, therefore, the plaintiff has a prima facie case to seek restraining order from further transfer of the suit land pending dispute. Issue notice to the defendants for 5.11.2013. Till next date of hearing the defendants are directed not to create any third party interest in respect of the suit land as well as raising any construction on the suit land.

JUDGE

S.Akhtar