

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 28 of 2005

Date

Order with signature of Judge

1. For hearing/argument on CMA No.6495 of 2011.
2. For hearing/argument on CMA No.6496 of 2011.

12/09/2013:

None Present for the plaintiff.

Mr. Nadeem Ahmed Advocate for Mr. Haider Waheed,  
Advocate for Defendants No.1 to 6.

Mr. Wasiq Ahmed, Advocate for the applicant/  
intervenor.

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1. The applicant/intervener through this application (CMA No.6495 of 2011) wants to be joined as plaintiff in this case. As per Annexure 'A' to this application, the interveners association was registered in 2005. The applicant/intervener has made the following prayers:

- a) To add the Applicant/Intervener as plaintiff
- b) To direct the defendant to hand over the Development Charges and Maintenance Charges to the Applicant/ Intervener which is AMANAT as admitted by the defendant no.1.
- c) To direct the defendants to give details of account spent on the Maintenance as well as on development of the project.
- d) To restrain the defendants and the plaintiff from collecting the Monthly Maintenance Charges from the residents in future and further declare that only the Green Park City Welfare Association is authorizes to collect the monthly maintenance from the allottees.
- e) Direct the defendant no.1 to handover the lease of all the amenities plots in favour of the Green Park City Welfare Association i.e. Parks, Schools, Hospitals, Community Center & Mosque, etc.

- f) Direct the defendant no.1 to release the cost of the construction of the amenities plots and handover the same to the Green Park City Welfare Association for the construction of all amenities plots as all the amenities are the belongs to the residents.
- g) Appoint the Nazir of this court to execute the sub lease to the allottees.
- h) Any other relief which this honourable court may deem fit.

As far as the pleading of this application is concerned, the applicant/intervener has not sought any relief nor it has mentioned anything against Defendants No.2 to 12. There is no alleged claim against Defendants No.2 to 12. For claiming of relief in the capacity of the plaintiff the parties are supposed to file their independent suits and they have to pay Court Fees. In a case which is pending since 2005 and in which the plaintiff has no nexus with the interest of the proposed intervener's claim as in either case on decree or dismissal of this suit, it will neither be binding on the intervener nor the intervener's rights disturbed in this case. In any case on query the intervener's counsel has informed that he is ready to pay the Court Fee. As this is no ground for becoming the intervener as a plaintiff in this case this application is dismissed and intervener if so wishes may file his independent claim for the relief prayed for in this application in accordance with law.

2. Since the application (CMA No.6495 of 2011) filed by the applicant/intervener has been dismissed today this application (CMA No.6496 of 2011) filed by the same applicant/intervener under Order XXXIX, Rules 1 & 2 CPC has become infructuous and is dismissed as such.

JUDGE

S. Akhtar