

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 1511 of 2005

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Date	Order with signature of Judge
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For hearing of CMA Nos:

1. 10095 of 2005
2. 7693 of 2009
3. For examination of parties/settlement of issues.

11/11/2013:

Mr. Zafar Iqbal Dutt, Advocate for the plaintiff.

Mr. Zahid Marghoob, Advocate for the defendants.  
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1. Deferred.
2. This is a suit for specific performance and is pending since 2005. Proposed issues have been filed by the parties. The defendants have filed this application (CMA No.7693 of 2009) under Section 151 CPC read with Section 21 of Specific Relief Act to deposit the token/advance amount received in consideration of the agreement of sale which is subject matter of this suit for specific performance. Learned counsel for the plaintiff is not agreeable to this proposition after almost eight years of the payment of advance and filing of the suit. The defendants have offered for refund double the amount realized by them from the plaintiff under the sale agreement. The plaintiff claims that he has paid Rs.5,85,000/-. The defendants claim that the sale consideration was only Rs.44,00,000/- and the remaining amount was paid to Defendant No.1 (since deceased). He further says that even that amount can be doubled and returned to the plaintiff to get the controversy resolved. Therefore, in the circumstances, the defendants are ready to pay a total amount of Rs.11,60,000/- to

the plaintiff. On the other hand, the plaintiff has yet to pay the balance amount of Rs.38,15,000/- towards balance sale consideration. As of today since the defendants are ready to pay an amount of Rs.11,60,000/- they are directed to deposit the same with the Nazir of this Court within one month subject to final determination as to how much of the said amount was paid as token money/advance and the plaintiff is directed to deposit an amount of Rs.38,15,000/- plus 10% interest from 2005 till date with the Nazir of this Court within one month from today. However parties are free to settle their dispute outside the Court and may again come to the Court for settle of their dispute. However, this amount so deposited in Court will be the subject to the final determination of the Court as to how much of the amount deposited by the parties should or should not be appropriated towards consideration or otherwise to the parties.

Office to fix this case after one month subject to the deposit of money by the respective parties.

This application (CMA No.7693 of 2009) is disposed of in the above terms.

JUDGE

S.Akhtar