

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.1356 of 2013
Suit No.1357 of 2013
Suit No.1358 of 2013
Suit No.1359 of 2013
Suit No.1372 of 2013

Date	Order with signature of Judge
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26/11/2013:

Malik Khushhal, Advocate for the plaintiffs in all the five suits.

Mr. Ghulam Haider Shaikh, Advocate for the defendants in Suit No.1356 of 2013.

Mr. Junaid Alam Rizvi, Advocate for the defendants in Suit No.1357 of 2013.

Mr. Khaleeq Ahmed, Advocate for the defendants in Suit Nos.1358 and 1359 of 2013.

Mr. Muhammad Sarfaraz Sulehry, Advocate for the defendants in Suit No.1372 of 2013.

NAZAR AKBAR, J: By this common order I intend to dispose of the above five suits filed by the plaintiffs against the defendants on identical facts except that the plot number in each suit is varying. The plaintiffs in Suit No.1356 of 2013 is allottee of Plot No.4/33, in Suit No.1357 of 2013 is allottee of Plot No.4/34, in Suit No.1358 of 2013 is allottee of Plot No.4/35 each measuring 280 square meters, behind M/s. Barma Oil at Boat Building Yard, West Wharf, in Suit No.1359 of 2013 is allottee Plot No.T-16, measuring 1300 square meters (adjacent to Nalla) at Boat Building Yard, West Wharf; and, in Suit No.1372 of 2013 is allottee of plot measuring 400 square meters, behind Plot No.15, Industrial Area, West Wharf. In all these five suits Annexure 'A' are the allotments issued by Defendant No.1 which are temporary allotment of plots.

The plaintiffs have filed suits for specific performance of contract and damages against the defendants. On 20.11.2013 the plaintiffs' counsel was directed to satisfy the Court on the question of maintainability of suit for specific performance against the defendant since no agreement or contract appears to have been filed alongwith the plaint. Today learned counsel for the plaintiffs could not show from the record any binding contract between the plaintiffs and defendants and while arguing the case on the question of maintainability he has drawn the attention of the Court to Annexure 'A' to the plaint which is common in all the suits is the temporary allotment issued by Defendant No.1 in respect of the respective plots of the plaintiffs. It is contended by the plaintiffs that they have challenged the action of their possible dispossession from the plot allotted to them by the defendants, as according to them the defendants are not acting in accordance with law and threatening the plaintiffs to dispossess them without any lawful basis.

According to the learned counsel for the plaintiffs that temporary allotments of KPT land issued to the plaintiffs carries Condition No.6 which is violated by the defendants. It is reproduced below:-

- “6. The occupation of KPT temporary land will be subject to one month's notice of vacation on either side. However you will hand over the vacant possession of the land to KPT immediately on receipt of notice from this department without demanding any compensation and any delaying tactics as and when the land is required for KPT's Development Scheme.”

Counsel for the plaintiffs claims that one month's notice has not been given to the plaintiffs for vacating the plots in dispute.

Therefore, the action is illegal. However, the plaintiffs' counsel could not go beyond Condition No.6 of the temporary allotment and say that he would be satisfied if the defendants are directed to act in accordance with law and restrained from taking any coercive action to dispossess them except by due process of law. The defendants' counsel claim that they have complied with requirement of Condition No.6 of the Temporary Allotments. The plaintiffs dispute their assertion. Therefore, the defendants are directed to act in accordance with law and should not dispossess the plaintiffs from their respective plots without due process of law. However, the plaintiffs are also put on notice on behalf of the defendants that these proceedings be treated as notice in accordance with Condition No.6 of Temporary Allotment. The time shall be treated to begin from today (26.11.2013).

In the above terms, these suits are disposed of alongwith the listed application in each suit.

JUDGE

S.Akhtar