

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Suit No. 183 of 2010

Date	Order .with signature of Judge
	1. For hearing as to maintainability of the suit. 2. For hearing of CMA No. 1255/10 (U/O 39 R 1&2 CPC) 3. For hearing of CMA No. 1950/10 (U/S 151 CPC) 4. For hearing of CMA No. 2496/10 (U/O VII Rule 11 CPC)

17.12.2013.

Mr. Muhammad Omar Lakhani, Advocate for plaintiff.
Mr. Usman Shaikh Advocate.
Mr. Wasiq Mirza Advocate.
Mr. Muhammad Idrees Alvi, Advocate for CDGK.
Mr. Nadeem Babar Advocate/defendant No.3 present in person.

Learned counsel for plaintiff is confronted with Section 29 of the Establishment of the Ombudsman Office, 1997, which prevents jurisdiction of Court in a very strong mandatory language and sub-section 2 of Section 29 specifically says that no injunction can be granted against anything done or intended to be done or purported to have been done by or under the orders or instance of Ombudsman. Issue in this case is specific with respect to Plot No. ST-5, Wasim Bagh, Gulshan-e-Iqbal, Karachi and the learned counsel for plaintiff has already gone to appeal against the order of the Ombudsman that has given following findings:-

“I have examined all the correspondence and statements and have noted that:-

- a) -----
- b) -----
- c) According to the Karachi Building and Town Planning Regulations (18-4.1), no amenity plot reserved for a specific purpose shall be converted or utilized for any other purpose.
- d) The DP&UD (now MPGO) flagrantly violated the KDA Act 1994: “No amenity plot, reserved for the purpose mentioned in clause (1) shall be converted to or utilized for any other purpose” and converted the amenity plot, ST-5, reserved for Park to School Playground.
- e) After initial approval of layout plan in 1986, the owners of Wasim Bagh got the Lay Out Plan revised four times for ulterior motives. In the final revision dated 16.04.1994, amenity plot meant for public park, was converted into a playground for school.
- f) It is evident that the revision in 1994 was grossly illegal as neither the amenity plot could be used for any other purpose as per regulation 18-4.1 of Karachi Building &

Town Planning Regulations nor the two plots could be amalgamated. In fact the sub-lease was also illegally executed without amalgamation of the two plots.

- g) ST-5 was the only public park within the limits of Wasim Bagh which was located right in the centre of the society and which could be used by the residents of Wasim Bagh for healthy activities whereas the school playground (ST-5) is only restricted to the students of that private school.
- h) The owner of Wasim Bagh malafidely maneuvered the revision of the lay out plan of 1986, converted the said public park into school playground and sold it to the school owner for handsome amount, thereby depriving the residents from enjoying the benefits of park.
- i) The representative of MPGO could neither give any justification for the revision of original lay out plat of 1986 and converting the public park into school playground nor could produce any document submitted by the owner of Wasim Bagh justifying the conversion.
- j) The EDO, MPGO, after the Site Inspection, instead of explaining the illegal conversion from public park to school playground, shifted the responsibility on KBCA and DP&UD (defunct KDA). In this site inspection report dated 26.01.2010, he did not elaborate as to how a public park could be converted to school playground against the rules.
- k) On another amenity plot (which is not subject matter of this complaint) earmarked for Marriage and Ceremony Hall, the owner of Wasim Bagh malafidely tried to raise multistoried commercial cum residential complex, in connivance with CDGK officials. However, the construction of it has been stayed by an interim order of the Sindh High Court.
- l) It was grossly illegal and unethical on the part of the leassor, M/s Lines (Pvt) Ltd. to get the plot of public park converted into a playground for monetary benefits thereby defeating the very purpose of its provisions in the original layout plan, which of course can not be ignored.”

The learned counsel seeks time to satisfy the court that interim order already passed in respect of Plot No. ST-5, Wasim Bagh, Gulshan-e-Iqbal, Karachi will not be in conflict with Section 29 and particularly the portion reproduced hereinabove. To come up after winter vacations, as per roster. In the meanwhile, statusquo to continue till next date of hearing.

Judge