

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Suit No.1151 of 2005

Date Order with signature(s) of Judge(s)

For Arguments

06.02.2014.

None present for the Plaintiff.
Mr. Muhammad Arif, advocate for the Defendant No.1.
Mr. Shahzad Ashraf, advocate for the Defendant No.3.

In compliance of the order dated 06.11.2013 written arguments have been filed by the Defendants No.1 & 3 which are taken on record. Diary reflects that the plaintiff is playing hide and seek. Plaintiff has not deposited the balance sale consideration. This Court on 18.9.2006 asked the defendant to deposit entire sale consideration if he wants transfer of the property in his name. Plaintiff has declined to do the needful. However, it is reported by the counsel for the defendant that the Plaintiff has got lis pendens registered with the Defendant No.2 in terms of Section 52 of the Transfer of Property Act, 1882. It is now 2014 and till date he has not shown any inclination to purchase the property by his conduct he is keeping case delayed on one pretext or the other. Under the circumstances, it is hereby ordered that the lis pendens registered by the Defendant No.2 stand vacated and the Defendants No.1 & 3 are free and at liberty to deal with the property in the way they wish to.

I have heard counsel for the defendants and their main contention is that since plaintiff has failed to show any inclination to purchase this property by his conduct and evidence has also been recorded to this respect which reads as follow:-

“It is correct to suggest that I would have never purchased property in question if I had prior knowledge that subject property does not have lease hold rights. It is correct to suggest that my counsel had refused to purchase the property in question without lease hold rights (as in where is) basis and also refused to deposit balance sale consideration.”

In the above circumstances, as the Specific Relief, cannot be claimed by the parties as a matter of right, and plaintiff is such that discretionary relief cannot be extended in his favour, he is not entitled for any decree. Suit is dismissed with cost.

JUDGE

SM