

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

SUIT NO.791/2013

Date

Order with signature of Judge

1. For order as to maintainability of suit vide order dated 2.7.13
2. For exparte order against defendant No.5 and 6.
3. For non prosecution as summon not issued to defendant No.1,2 & 7 as process fee not paid.
4. For hearing of CMA No.7307/13.

24.11.2014

Ms. Naveed A. Shahid advocate for defendant No.3

Mr. Masood Anwar Ausaf advocate for defendant No.4.

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Plaintiff has filed this suit for specific performance in respect of the property which reportedly has been sold by the Banking Court No.II for the satisfaction of the decree in Suit No.165/2010 and Execution No.146/2011 as stated by learned counsel Ms. Naheed A. Shahid at the Bar. The plaintiff has himself shown defendants No.3 as judgment debtor of a bank and impleaded even Banking Court No.I and II as party in the instant suit for specific performance of the contract. Obviously none of these defendants No.3, 4, 5 and 6 can be compelled through Court to specifically perform the contract of transfer of the property in favour of the plaintiff after setting aside decrees. Be that as it may, in view of the fact that property had already been mortgaged and stand sold in execution proceedings by the Banking Court. This Court has repeatedly directed the learned counsel for plaintiff to satisfy the Court on the question of maintainability of the suit. Such order was passed on 17.06.2013 but the learned counsel for the plaintiff has not come forward to satisfy the Court on the point of maintainability of the suit. On 02.07.2013 he sought time and on 17.11.2014 he was absent

and again today he is absent and the case is listed even for non prosecution against some of the defendants.

In view of the above, this suit is dismissed as not maintainable and all the pending applications are also dismissed as infructuous.

IK/PA

JUDGE