

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Suit No.72/2013

DATE

ORDER WITH SIGNATURE(S) OF JUDGE(S)

1. For Ex-parte order against the Defendant No.1
2. For orders on CMA No.2246/2013 (U/s.148 CPC)
3. For hearing of CMA No.659/2013 U/o.39 Rule 1 & 2 CPC)

17.11.2014

Mr. Muhammad Aziz Khan, Advocate for the Plaintiff.
Mr. Ejaz Mubarak Khattak, advocate for Defendants No.2.
Mr. Muhammad Idress, advocate for the Defendant No.4.

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Requirement of suit for specific performance of contract is that Plaintiff must be ready at all the time to perform his part of contract. Suit was filed in January 2013 and Court directed the Plaintiff to deposit the balance sale consideration within 20 days. The order was passed in presence of the counsel and learned counsel says that order was only in respect of the restraining the Defendant from creating the third party interest. Purpose of the order was to ensure capacity of the buyer. Almost 01 year and 10 months have passed and no effort has been made by the Plaintiff to deposit the said amount in Court. Learned counsel for the Plaintiff has only filed application under Section 148 CPC on 20th day from 29.1.2014 and it was not followed by urgent hearing application and even listed for hearing application since February 2013 meaning thereby the order dated 29.1.2013 has been flouted. Inaction on the part of the Plaintiff is sufficient to establish that he has no intention to perform his part of contract before Court. However, 48 hours are given to the Plaintiff to deposit the balance amount of sale of sale consideration in Court. In case of his failure, the application would be deemed to have been dismissed. Thereafter the Plaintiff would be required to satisfy the Court on the question of maintainability of suit for specific performance of contract.

To come up on 27.11.2014.

JUDGE