

plaintiff has no locus standi to initiate the instant suit. The plaintiff has filed his counter affidavit.

3. I have heard learned counsel and perused record.

4. The learned counsel for the defendant has contended that the suit of the plaintiff is based on general agreement which is unregistered and revocable and since the defendant has already issued cancellation of sanction along with allotment of plots by letter dated 27.11.2007, the plaintiff has no right, title or interest in the property. He insists that this court has no jurisdiction to entertain the suit for declaration and injunction against the defendant and in support of his contention he has relied on **Section 11 of Central Government Lands and Buildings (Recovery of Possession) Ordinance 1965**, barring the jurisdiction of civil court to grant temporary injunction against the Central Government or any Officer authorized by it from taking possession of any lands or the buildings under the said ordinance. He has also relied on the judgment report in P.L.D. 1965 S.C. 83 and N.L.R. 1989 (Civil) 78.

5. Learned counsel for the defendant has further argued even "cause of action" for the claim of damages by the plaintiff is misdirect against the defendant. The damages, if any, according to the counsel were attributed to the Custom Authorities, and not against the defendant. In this context he has referred to the contents of three letters filed with the plaint as annexure J, K/1 and K/2 respectively to

demonstrate that the plaintiff has complained against the Custom Department for not releasing the consignment of the plaintiff and non-cooperation of the custom department which has prompted the defendant to issue notice impugned in this suit. He further argued that in terms of **Article 2** of the **Limitation Act, 1908** the question of compensation / damages, if any, the limitation is 90 days and the suit has been filed almost after one year of cancellation of sanction by letter dated 27.11.2007.

6. Learned counsel for the plaintiff in reply has contended that the counsel for the defendant has not referred to the contents of the plaint which are to be seen before rejecting the plaint. She has argued that the declaration has been sought against the Export Processing Zone Authority/defendant for the rights acquired by plaintiff under the General agreement and the 'Lease Deed' of plots No.15, 16 & 19, Sector-C-VII which rights are being denied by the defendant and the central government does not come in picture at all since the relationship between the plaintiff and the defendant are governed by the EPZ Ordinance. She has pointed out that even the correspondence between the parties does not refer to the provision of Central Government Lands and Buildings (Recovery of possession) Ordinance, 1965. The learned counsel has contended that the defendant is a corporate body and independent in conducting its affairs to achieve the purposes of the EPZ Ordinance.

7. On careful consideration of the arguments of learned counsel, I am afraid the first contention of the defendant that the plaintiff have not acquired any right in terms of General Agreement on the ground that it was not registered and revokeable has no legal basis. The Defendant admits a contract with the Plaintiff in the name of “general agreement” and the defendant for himself under the said agreement has right to invoke arbitration clause but denying any corresponding right in favour of the plaintiff under the same agreement. Strange. Once the defendant filed an application under **section 34** of the **Arbitration Act, 1940** with reference to clause 17 (a) of the general agreement was dismissed and appeal was not preferred by the defendant the question of jurisdiction to entertain the suit impliedly stand answered in the affirmative. The Defendant has accepted the existence of a dispute with the plaintiff but he wanted to change the forum for resolution of the dispute from civil Court to the Arbitrator. The court record shows that the negotiations for out of court settlement have also failed as reflected in order dated 25.2.2014 and 12.3.2014. All these efforts on the part of the defendant indicates that they were convinced in their heart that this court has jurisdiction in the matter.

8. Once the parties through their pleadings have directly or indirectly confirmed that they have a dispute between them, the existence of “cause of action” to raise the “dispute” before a legal forum cannot be denied. In the present suit the

cause of action on infringement of rights granted to the plaintiff by virtue of the said general agreement read with provision of Export Processing Zone Authority Ordinance, 1980 also stand conceded by the Defendant.

9. The perusal of the plaint shows that the plaintiff has challenged not only the so called cancellation of sanction and allotment of plots through letter dated 22.11.2007 but have also complained highhandedness of the defendant in restraining the plaintiff by force to have an access to his business by putting their locks on the gate of the plaintiff's Engineering units on the plots in Karachi Export Processing Zone. Not only that the plaintiff has also accused the defendants for causing various losses to the plaintiff by their conduct which include both general and special damages. The plaintiff has prayed for restoration of the safety, deposit box together with all its contents including 50,000/- US dollar and cash of Rs.15,00,000/- and five computer laptops and other machinery and record which allegedly have been removed by the defendants. Thus the reading of the plaint suggests that the contention of the counsel for the defendant that the cause of action for damages is not directed against them on the basis of the three annexures to the plaint is misconceived. The act/omission of the defendants complained by the plaintiff originate from lawfully entered agreement with the defendant and of course violation of terms of lease agreement in respect of the plots which is renewable. The cause of action has been shown in very explicit terms that the

letter of cancellation of sanction and the lease of plots dated 22-11-2013 was in violation of terms and conditions of the sanction and the EPZ Ordinance causing losses to the plaintiff cannot be decided without recording evidence. The contention of the defendant that this court has no jurisdiction to grant temporary injunction on the ground of **section 11** of the Central Government Lands and Buildings (Recovery of possession) Ordinance, 1965 has been aptly replied by the counsel for the defendant. The possession was handed over to the plaintiff under lease agreement by and between the plaintiff and the defendants and the defendant has invoked the provision of **section 24** of the E.P.Z. Ordinance. The E.P.Z. Ordinance does not bar jurisdiction of civil court in deciding the dispute arising between the plaintiff and the defendant regarding declaration of right acquired by either of them under the General Agreement and lease deed, therefore, the case law referred and relied upon by the learned counsel for the defendant with reference to the provision of **section 11** of the **Central Government Lands and Buildings (Recovery of possession) Ordinance, 1965** is not relevant in the giving facts in this case.

10. The last contention of the counsel for the defendant that the claim of damages is barred by **Article 2** of the **Limitation Act, 1908** is also misconceived. The plaintiff has filed suit for damages which includes damages caused to the plaintiff by putting up locks and disconnection of electricity to their Engineering units and even removal of safety boxes by the

defendant and such cause of action against the defendants is a continuing cause of action since according to the plaintiff till date utility connection have not been restored. As long as the cause of action continues the question of point of time or computation of period of limitation to take the benefit of Section 3 of the Limitation Act, 1908, does not arise.

11. In view of the above discussion, the defendant's claim that the plaintiff has no cause of action nor locus-standi to file the present suit has no force. The application under Order VII Rule 11 C.P.C. is dismissed, with no order as to cost.

Karachi
Dated: _____

JUDGE