

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 1610 of 2014

Date Order with signature of Judge

For hearing of CMA No.11033/14 (u/o 39 rule 1&2 CPC of the plaintiff)

03.10.2014

Mr. Muhammad Mehboob Awan, Advocate for the plaintiff.

Mr. Muhammad Ajmal Awan, Advocate for defendant No.6&7.

Mr. Muhammad Yaseen Azad, Advocate for defendant No.8

Mr. Abdul Wajid Wyne, Advocate for defendant No.9.

The plaintiff has filed this suit for declaration, cancellation, partition, possession, mesne profit and permanent injunction against the defendants, claiming his 1/9 share by inheritance in the suit property left by Mst. Hajiani Halima Bai. The defendant No.1 to 7 are also legal heirs of Mst. Hajiani Halima Bai who was the original owner of the suit property and the defendant No.8 claims to have purchased the suit property from all the legal heirs including the plaintiff.

The defendant No.8 filed his counter affidavit along with copy of pay orders which includes one pay order in the sum of Rs.37,61,200/- drawn on Habib Metropolitan Bank in favour of the plaintiff herein to the extent of his 1/9

share. However, the plaintiff has claimed that he has not received this pay order. He contends that sale deed is forged and fabricated as the name appeared before the Registrar. All the defendants No.1 to 7 who are the major share holders to the extent of 8/9 share in the suit property have not disputed the sale deed. Therefore no inconvenience shall be caused to the plaintiff if the injunction is refused on the construction as the construction work would not disentitle the plaintiff from his legal right nor it would change his 1/9 share. To the contrary it would cause not only inconvenience but major irreparable loss to the defendant No.8 who is at least undisputed owner of 8/9 share by virtue of having lawfully purchased the same from the defendants No.1 to 7.

In view of the above factual position, the injunction application is dismissed.

Adjourned to a date in office

JUDGE

M. Tahir