

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
Suit No.798 of 2012

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DATE                      ORDER WITH SIGNATURE(S) OF JUDGE(S)  
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For orders as to maintainability of suit

**26.02.2015**

None present for the Plaintiff.

Mr. Muhammad Azhar Faridi, advocate for the Defendant No.1.

Mr. Asim Iqbal, advocate for the Defendants No.3 & 4.

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The Plaintiff was directed to satisfy the Court on the question of maintainability. In the case in hand, this suit was filed on 12.7.2012 and despite directions of the Court to deposit the balance sale consideration with the Nazir of this Court, the Plaintiff has failed to comply with the orders of the Court and his application for interim order was dismissed. Admittedly he was not put in possession of the property in question by the Defendant No.1 the owner of the premises. Plaintiff in para 6 & 8 states that he has made payment to the previous tenant for taking over possession from him. Irrespective of the fact whether he has entered into agreement of sale or not it is settled principle of law that the Plaintiff while seeking specific performance of a contract should first be willing and ready to perform his part of the contract. In the case of sale of immoveable property the only liability of the buyer is to establish his ability to be ready and willing to make payment of the sale consideration within time stipulated in the agreement of sale or within the reasonable time as agreed by the parties. The Plaintiff by conduct has established that he was not ready to perform his part of the contract. Consequently it is a case of "no cause of action" since he has neither offered to pay the sale consideration nor he was capable. In view of the above, this suit is dismissed as not maintainable.

JUDGE