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ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
IInd Appeal No. 40 of 2017

Date: _____ Order with signature of Judge _____

1. For hearing of CMA No.3572/17
 2. For hearing of main case
-

21.3.2018

Syed Ansar Hussain for appellant
Mr. Zafar Imam for respondent
Mr. Abdul Jalil Zubedi Assistant A.G
.X.X.X.X.

There are two questions raised by the learned Counsel for the appellant. Primary question relates to issue no.5 as framed by the trial Court which is as under:-

"v. Whether the plaintiff is entitled to become a new member of Meerut Cooperative Housing Society Limited, as the plaintiff purchased the plot in question on the basis of registered sale deed from defendant No.4, i.e. who lawful owner of the property in question?"

The other point as argued was that the plaintiff/respondent No.1 was on notice regarding area of the subject plot vide letter dated 15.11.2007.

I have heard the learned Counsel and perused the material available on record.

Despite specific issue as framed by the trial Court the appellant/defendant has failed in its duty in exhibiting the by-laws of the society which could have disentitled the respondent no.1/plaintiff from being member of the society. The bylaws requires that the person who was born in Meerut Division or whose parents before migration to Pakistan had lived in Meerut Division could be a member of the society. However these bylaws were never available before the trial Court and the burden is on appellant/ Meerut Cooperative Housing Society who failed to

discharge its burden hence this case could not be remanded to the trial Court to fill up the lacunas.

Insofar as the second question in respect of the area of plot in question is concerned, firstly the notice prima facie is not addressed to the plaintiff/respondent No.1. Secondly it is much after the execution of the lease. The lease of plot in question was executed on 31.5.2007 whereas the alleged letter was issued on 15.11.2007 and unless the lease is set aside, the subsequent buyer cannot be non-suited, hence these points would not be sufficient to interfere with the concurrent findings of two Courts below. The appeal is therefore, dismissed along with pending applications.


Judge

THE HIGH COURT OF SINDH KARACHI
IIInd Appeal No. 40 of 2017

Meeruth Cooperative Housing Society.....Appellant

V E R S U S

Shahid Akhtar & others.....Respondents

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Certified to be true copy,

Sd/-MUHAMMAD SHAFI SIDDIQUI
JUDGE

Assistant Registrar (Civil/Writ SB)

Ind Appeal No. 40 of 2017.

Karachi dated: 26th March, 2018.

Forwarded for information and compliance to:

1. The 1st Additional District Judge, Malir Karachi in Civil Appeal No.49/2016 Reg. Meerth Co-operative Housing Society Ltd versus Shahid Akhter & others alongwith Original R&Ps (in one part).
2. The 1st Senior Civil Judge, Malir Karachi in Civil Suit No.15/2016 Reg. Shahid Akhtar Qureshi versus Meerat Co-operative Housing Society Ltd & others alongwith Original R & Ps (in one part).

(Abdul Rasheed Baloch)

Assistant Registrar (Civil / Writ SB)

And copy

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(Abdul Rasheed Baloch)

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