

ORDER SHEET
HIGH COURT OF SINDH AT KARACHI

Suit No.510 of 2017

DATE

ORDER WITH SIGNATURE(S) OF JUDGE(S)

For hearing of CMA Nos.

1.2758/2017

2.2759/2017

3.3885/2017

06-04-2017

Mr.Salman Hamid, Advocate for the Plaintiff

Mr.Najeeb Jamali, Advocate for the Defendant Nos.1 to 3.

Mr.Kh.Shamsul Islam, Advocate for the Interveners/Applicants.

CMA No.2758/2017. The plaintiff has filed this suit on the basis of agreement to sell dated 13.1.2017. The learned counsel argued that though it is unsigned by the defendant Nos.1 to 3, but prior to this agreement the plaintiff had already paid Rs.21,06000/- vide cheques dated 25.12.2016 (Photocopy of both cheques are available at page 23 of the court file). He further argued that the amount was received by defendant Nos.1 to 3. The matter was placed before this court on 20.2.2017 when learned Single Judge restrained the defendants from creating any third party interest in respect of the suit property. During pendency of this case Mrs.Maria Gul Muhammad and Ms.Misbah filed an application under Order 1 Rule 10 CPC (CMA No.2758/2017) in which they have taken the plea that vide agreement dated 2.2.2017 they have purchased this property from defendant Nos.1 to 3 and in paragraph 2 of the agreement at page 149 they have also given details of payments made to the defendant Nos.1 to 3, therefore, their counsel argued that these two applicants/interveners are proper and necessary party and they may be impleaded. Learned counsel for the plaintiff pointed out page 89 of the court file, which is a public notice

issued on behalf of the interveners by their counsel Mr.Khalid Riaz informing the deal of the property to general public but on 9.2.2017 the plaintiff's counsel informed him the factum of earlier agreement of plaintiff with defendant Nos.1 to 3. The counsel for the defendant Nos.1 to 3 argued that the cheques were not received by all defendants but the defendant No.1 only received the cheque who is not sole owner of the property in question.

In order to proceed further, in my view the interveners are proper and necessary party. After arguing at some length the plaintiff's counsel has no objection to implead them and counsel for the defendant Nos.1 to 3 has also given no objection. Consequently, the CMA No.2758/2017 is allowed. Learned counsel for the plaintiff will file the amended plaint within 10 days with advance copy to the counsel for the defendants. The newly added defendants will be impleaded as defendant Nos.6 and 7. The counsel for defendant Nos.6 and 7 will file counter affidavit to the injunction application before the next date. By consent the matter is adjourned to 19.04.2017 for hearing of all pending applications. Interim order to continue till next date.

An application under Order 7 Rule 11 CPC (CMA No.2759/2017) is also pending. Mr.Salman Hamid, Advocate has already filed his objections to this application and does not claim notice.

Judge