

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

JM No. 16 of 2016

Order with signature of Judge(s)

1. For hearing of CMA No.5737/2016
2. For hearing of main application

11.09.2018

Mr. Ashfaq Ahmed, Advocate holds for Mr. Muhammad Ali Lakhani, Advocate for the Applicant
Mr. Muhammad Yaseen Azad, Advocate for Defendant No.1

A brief is held for the counsel for the Applicant, who is busy before another bench of this Court. Learned counsel for Respondent No.1 submits that the subject property by way of outcome of a settlement reached between the husband and wife i.e. Respondent No.1 and 2 in US Court at California stood transferred in the name of Respondent No.1 in the year 1998 and when he approached for mutation, DHA raised objections, which resulted in him filing Suit No.101 of 2013 against wife and the Defendant No.2, which was finally decided by way of compromise, where both the parties appeared before this Court and raised no objection for transfer/mutation of the property in the name of husband (Respondent No.1).

Learned counsel further states that on the basis of mere receipt attached at Page-27 dated 06.12.2012, the Applicant is claiming rights in the property alleging that the lady Habibeh Sadaruddin (Respondent No.2) agreed to sell the property to the Applicant. Per counsel, if the intention is to seek specific performance, the Plaintiff had an option to file a suit for such performance, which admittedly would require making payment of balance sums and by simply filing this application under Section

12(2) CPC the entire process of mutation has come to a halt and the whole transaction has been put into a limbo.

In particular when interim injunction is operating in this JM, and in the wake of the above submissions, it acquires paramount consideration that the instant JM be heard and decided soonest as the valuable rights of the Respondent No.1 are prejudiced.

For these purposes, the matter is adjourned to 04.10.2018 when both the counsel be ready and proceed with the matter, if the counsel for the Applicant does not appears and the counsel for the Defendant is present, the matter will be heard ex-parte and decided solely relying on the material available on record.

Interim order passed earlier to continue till the next date of hearing.

JUDGE