

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
C.P. No. D-6440 of 2018

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Date \_\_\_\_\_ Order with signature of Judge \_\_\_\_\_

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**Hearing / Priority**

- 1. For order on Misc. No. 30794/2018.**
- 2. For order on office objections No.19.**
- 3. For order on Misc. No. 28095/2018.**
- 4. For order on Misc. No. 28096/2018.**
- 5. For hearing of main case.**

**12.10.2018**

Mr. Malik Khushhal Khan Advocate for Petitioner.  
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1. Urgency granted.
  3. Granted subject to all just exceptions.
- 4&5. It is, inter alia, contended by the learned counsel for the Petitioner that the Petitioner is in occupation of a piece of land ad-measuring 200 Sq. Yards adjacent to Plot No. 69 Timber Pond, Keemari, Karachi, which was initially in possession of Mr. Jairam B. Karacasia, who filed a civil Suit No. 603 of 1987 for declaration and permanent injunction, before the Court of XIIth Civil Judge Karachi South, which was later on decreed vide judgment dated 11.04.1988. Learned counsel emphasized that the aforesaid land was gifted to the petitioner by Mr. Jairam B. Karacasia vide declaration and confirmation of oral gift dated 23.03.2006. He next argued that an execution application No. 09 of 1991 was filed in the suit proceedings and the learned First Senior Civil Judge at Karachi South vide order dated 25.11.2010 modified the earlier order dated 27.08.2010 and directed the judgment debtor to issue allotment order to the Decree Holder accordingly. Learned counsel for the Petitioner drew our attention to the, Port Authority Lands and Buildings

(Recovery of Possession) Ordinance IX of 1962, promulgated on 17.2.1972 and referred to the Section 3 of the Ordinance and argued that the Respondent-KPT cannot evict the Petitioner from the subject premises without resorting the due process of law.

During the course of arguments, we asked from the learned counsel for the Petitioner to satisfy this Court regarding maintainability of the captioned petition on the premise that there is no allotment order, regarding subject property, in favour of the Petitioner to claim his entitlement under the law. In reply to the query, he submitted that his only grievance is that the Petitioner may not be evicted from the subject premises without due process of law as provided under Section 3 of the Ordinance 1962 as discussed supra.

In view of the stance taken by the learned counsel for the petitioner on the issue involved in the present proceedings, we are of considered opinion that prima facie, the subject petition is not maintainable under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, for the simple reason that Petitioner has failed to substantiate his claim of ownership on the subject premises, record does not reflect that the respondent-KPT has executed any allotment order in favour of the petitioner. We are of the view that merely in possession of the subject premises cannot confer ownership rights to the petitioner of the property in question to claim protection of Article 23 and 24 of the constitution.

Without touching the merits of the case, we are of the view that the Petitioner has remedy to approach the civil court for grant of such relief, if the petitioner intends to do so in accordance with law, as this court is not executing court of the learned Civil Court. This being a position of the case, we are not inclined to dilate upon the matter any further. This petition is misconceived, which is dismissed in limine along with listed application(s).

JUDGE

JUDGE