

# IN THE HIGH COURT OF SINDH AT KARACHI

## Suit No. 754 of 2002

[Abrarul Hassan v. Qazi Muhammad Shakil and others]

Date of hearing : 24.09.2019.  
Date of Decision : 24.09.2019.  
Plaintiff : Abrarul Hassan, through M/s. Khawaja Naveed Ahmed and Afsheen Khanum, Advocates.  
Defendant No.3-9 : M/s. Barrister Hidayatullah Mangrio and Muhammad Munir Khan, Advocates.  
Defendants 1,2&10 : Nemo.

## J U D G M E N T

**Muhammad Faisal Kamal Alam, J:** - The Plaintiff has filed present *lis* in respect of a plot, that is, E – 12, Block – 17, measuring 1625.55 Square Yards, Gulshan-e-Iqbal, Karachi (“**Suit Plot**”). The plaint contains the following prayer clause\_

- a) *To declare that the plaintiff is bonafide owner of the plot No. E-12, Block-17, Gulshan-e-Iqbal, Karachi.*
- b) *To grant permanent injunction restraining the defendant from interfering into lawful construction of the building of the plaintiff on plot No. E-12, Block-17, Gulshan-e-Iqbal, Karachi.*
- c) *Cost of the suit.*
- d) *Any other relief this Hon’ble Court deems fit and proper in the circumstances of the case.*

2. Initially the suit was filed only against Defendant No.1 – Qazi Muhammad Shakil, but, subsequently, Intervenors were impleaded as Defendants No.3 to 9, who have filed their common Written Statement and have contested the claim of the Plaintiff.

3. On 03.04.2019, learned counsel for private Defendants No.3 to 9 filed Statement together with a copy of the order dated 02.09.2008 passed by learned Division Bench of this Court in C. P. No. D – 173 of 2005, which is about the Suit Plot, and argued that issue involved in the present *lis* has already been decided by the learned Division Bench. Thereafter couple of chances were given to Plaintiff's side to satisfy the Court about maintainability of present suit.

4. Since the entire controversy has been narrowed down, hence no evidence is required to be led. In order to decide this matter, the following would be the points for consideration\_

*1. What is the effect of order dated 02.09.2008 passed by learned Division Bench of this Court in C. P. No. D – 173 of 2005?*

*2. What should the decision be?*

5. Heard arguments of learned counsel for the parties and perused the record.

**POINT NO.1:**

6. Mr. Khawaja Naveed Ahmed, learned counsel representing the Plaintiff, submits that the plots presently in occupation of Defendants No.3 to 9, are also illegal and were also amenity plots. He further submits that Plaintiff was defrauded by the government officials and that is why Defendant No.10 was impleaded as party in the suit.

7. On the other hand, Barrister Hidayatullah Mangrio, while representing Defendants No.3 to 9, disputes the above position.

8. The above Order dated 02.09.2008 passed in C. P. No. D – 173 of 2005 is quite specific and is about the Suit Plot, wherein it has been observed that the suit plot was carved out from an amenity plot and has not

been regularized in a proper manner and resultantly, the petition challenging the status of plot was allowed with the directions to Defendant No.10 to take over the plot and maintain its status as an amenity plot. Present Plaintiff was impleaded as Respondent No.1 in the above constitutional petition, thus, Plaintiff is in knowledge of the above Order. In this view of the matter the present proceeding cannot be kept pending anymore.

9. Adverting to the contentions of learned counsel for the Plaintiff, he may file an appropriate proceeding, which, if filed or instituted, will be considered on its own merits and within the parameters of law. As far as the above order of learned Division Bench is concerned, since the same is still holding the field, therefore, the remedy sought in the present proceeding cannot be allowed or granted. Point No.1 is answered accordingly.

**POINT NO.2:**

In view of what has been stated herein above, the present suit is dismissed, but with no order as to costs.

Riaz / P.S.

**Judge**