

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

High Court Appeal No. 107 of 2022

Date	Order with signature of Judge
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Fresh Case

1. For orders on office objection a/w. reply at "A".
2. For orders on CMA No. 818/2022.
3. For hearing of Main Case.

30.03.2022:

Mr. Khilji Fahad Arif, advocate for the appellant.

Instant High Court Appeal arises against the impugned order dated 28.03.2022 passed by the learned Single Judge on an application being CMA No.8225/2019 filed by the appellant under Section 151 CPC in Suit No.953 of 2019 with the prayer that since the plaintiffs have failed to deposit the balance sale consideration inspite of lapse of considerable time, therefore, could not demonstrate willingness for seeking specific performance of agreement, hence the suit may be dismissed, has been dismissed by the learned Single Judge through impugned order inspite of the fact that the learned Single Judge has been pleased to observe that in view of the facts of the case, the plaintiffs have not been able to demonstrate that they are ready, willing and able to pay balance sale consideration. According to learned counsel, instead of allowing the application, the same has been dismissed.

It appears that due to some inadvertence and without recording any finding to the merits of the application and the claim of the appellant, has agitated through listed application, the same has been dismissed, however, without recording any finding on the merits of the application, therefore, while setting aside the impugned order, we deem it appropriate to remand the matter back to the learned Single Judge to decide the CMA No.8225/2019

afresh, after hearing the learned counsel for the parties, in accordance with law.

Instant High Court Appeal stands disposed of in view of the above terms alongwith listed application.

J U D G E

J U D G E

A.S.