

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
High Court Appeal No. 203 of 2022

Date

Order with signature of Judge

FRESH CASE

- 1) For orders on CMA No. 1866/2022.
- 2) For orders on office objection a/w reply as at "A".
- 3) For orders on CMA No. 1867/2022.
- 4) For hearing of main case.
- 5) For orders on CMA No. 1868/2022.

27.06.2022.

M/s. Muhammad Arif Shaikh & Abdul Waheed Kanjoo,
Advocates for Appellant.

1) Granted.

2) To be complied before the next date.

3) Granted subject to all just exceptions.

4 & 5) Through this High Court Appeal, the Appellant has impugned order dated 02.06.2022 passed by a learned Single Judge of this Court while allowing CMA No. 8548 of 2022 in Suit No. 2022 of 2021 to the extent of the observations as contained in Line No. 7 onwards in Paragraph 5 of the order available at Page 25 of this Appeal.

Learned Counsel for the Appellant submits that the land in question was allotted in the year 2010 to the Appellant pursuant to a decision of the Scrutiny Committee vide its meeting held on 07.09.2009, whereas, payment challan was issued in the year 2021 which was immediately deposited; however, the Respondent No. 3 was delaying the matter as to further formalities and therefore, a Suit for Declaration and Injunction was filed. He submits that through application bearing CMA No.8548 of 2022 under Order 39 Rule 1 & 2 CPC the Appellant had prayed to issue directions to Respondents to compete all codal formalities by issuing an allotment order

as well as demarcation and further acts on the part of the said Respondents and though the learned Single Judge has allowed the application, but on its own, and without any objection or opposition from the Respondents, it has been directed that the Respondents shall resubmit the summary to the competent authority for rationalization of the price of the land as per prevailing market rates. He submits that the determination of the price is the prerogative of the Respondents which has already formed a Scrutiny Committee and the learned Single Judge without any supporting material on record has observed that the price deposited by the Appellant is a throw away price, whereas, the land is situated adjacent to a prestigious urban area. He submits that such finding could not have been recorded by the learned Single Judge while allowing the Application, and in absence of any objection or material to that effect. He submits that the Appellant is aggrieved only to the extent of the above observations; hence, this Appeal.

Let notice be issued to the Respondents as well as Advocate General for a date to be fixed by the office immediately after summer vacations. Till then, the observations in impugned order as contained from Line No. 7 in Para 5 (***starting from “the defendant is further directed to resubmit the summary” till “to all land planning regulation and subject to law / Rules”***) till the end of that paragraph shall remain suspended.

J U D G E

J U D G E

Arshad/