

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Suit No.1952 of 2018

Date	Order with signature of Judge
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1. For Orders on CMA No.14695/18 (If granted)
2. For Orders on CMA No.14696/18. (U/O 39 Rule 1 & 2 CPC)

18.10.2018

Mr. Babar Sattar, Advocate for the Plaintiff.

1. Granted.
2. This is a Suit for Declaration, Possession, Cancellation and Permanent Injunction. Learned Counsel for the Plaintiff submits that the Plaintiff's deceased grandfather (N. M. Chotani) was owner of Plot No.109/1 measuring 2032 Sq. Yds., CF-15, Clifton Quarters, Main Clifton Road, Karachi pursuant to a registered Lease dated 15.06.1955 issued in favour of N.M Chotani, the maternal grandfather of the Plaintiff. He submits that Mr. N.M Chotani died on 05.05.1970 and his wife also expired on 01.09.1967, even prior to his death. He submits that the deceased left behind a daughter namely Naseem Begum, who also expired on 10.07.1989 leaving behind two legal heirs i.e. her husband Muhammad Iqbal (father of Plaintiff) and the present Plaintiff. Learned Counsel submits that the deceased father of the Plaintiff thereafter filed SMA No.141/2016, which was granted by this Court vide Order 16.06.2017. The Letter of Administration was also issued; however, the father of the Plaintiff namely Muhammad Iqbal expired on 17.12.2017 and thereafter the Plaintiff filed Miscellaneous Application in the said Succession Petition, whereas, the concerned Authorities were also approached for recording of mutation entry in the name of legal heirs; but the same was not done, and thereafter Defendants No.1 & 3 came before the Court in the said Succession Petition, as objectors and claimed

ownership of the property in question. He submits that the said Succession Petition has been disposed of through Order dated 24.09.2018, whereby, the Letter of Administration has been withdrawn/cancelled and it has been further observed that the parties may approach the Civil Court for redressal of the grievance, if any, hence instant Suit. He submits that the Defendants are claiming ownership on the basis of Deed of Dissolution of Partnership dated 1.1.1953, wherein, purportedly the ownership of the property in question was allotted to the predecessor in interest of Defendants on the basis of some settlement, whereas, admittedly the property was owned by the deceased grandfather in his own name and was never a property of the Partnership concern, therefore, all subsequent transfers and rights based and originated from the Deed of Dissolution of Partnership dated 1.1.1953 are void and illegal. He further contends that the said Dissolution is an unregistered document, whereas, the lease in question dated 15.06.1955 is a registered document, therefore, the same will prevail and subsist in law.

Let notice be issued to the Defendants for 08.11.2018. Till the next date of hearing, the Defendants shall not create any third party interest in respect of the Suit Property.

J U D G E

Ayaz.