

IN THE HIGH COURT OF SINDH AT KARACHI**Suit No.1544 of 2008****Muhammad Israr Khan -----Plaintiff****Versus****Muhammad Anwar Khan -----Defendant****Date of hearing: 26-02-2016****Date of judgment 26-02-2016****Plaintiff: Through Mr. Raja Sikandar Khan Yasir,
Advocate.****Defendant: Nemo (Ex-parte)****J U D G M E N T**

Muhammad Junaid Ghaffar, J. This is a Suit for Possession, Mense Profit and Injunction against the Defendant in respect of property bearing House No.B-277, Block-13, Federal "B" Area, Karachi, on the basis of registered Declaration for Confirmation of Oral Gift No.4703, Book-1 of Sub-Registrar "T" Division-VII, Karachi dated 10.12.1990, M.F. Roll No.1347 dated 19.12.1990, on the ground that the property in question was gifted to the Plaintiff by his mother. It is the case of the Plaintiff that the Defendant, who is brother of the Plaintiff was allowed to reside on the 1st Floor of the Said Property, however, the Defendant has till date neither vacated the property nor is paying any rent in respect thereof. Notice and summons were issued to the Defendant and vide Order dated 01.10.2009 passed by the Additional Registrar (O.S), the Defendant was debarred. It appears that thereafter an attempt was made by the defendant to file Written Statement without permission of the Court and

Counsel was engaged, however, on 22.10.2010, it was observed by the Court that despite grant of time, no proper application has been filed for bringing the Written Statement on record and accordingly the Defendant has been declared ex-parte vide Order dated 22.10.2010. The Plaintiff has led his evidence by filing his Affidavit-in-Evidence in Ex-parte proof along with the Gift Deed (**Exhibit P/2**), Certificate dated 01.07.2008 issued by City District Government, Karachi (**Exhibit P/3**), Legal Notice dated 24.10.2008 issued to the Defendant for vacating the property in question (**Exhibit P/4**), whereas, on 28.10.2015, this Court had directed the Plaintiff to place on record the title documents of the property in question in favour of the donee i.e. the mother of the Plaintiff, which the Counsel for the Plaintiff has placed on record through Statement dated 08.12.2015.

Since the Defendant has failed to come forward to present his case and the evidence led by the Plaintiff has gone unchallenged and the Gift Deed in question which is a registered document, having presumption in its favour, therefore, the Suit of the Plaintiff is decreed to the extent of prayer clause "A". Insofar as prayer clause "B" is concerned the Suit is decreed only to the extent of mense profit of Rs.15,000/- per month instead of Rs.30,000/- as claimed.

Suit stands decreed in the above terms. Office is directed to prepare decree accordingly.

Judge