

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
II-Appeal No. 66 of 2020

Date	Order with signature of Judge
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1. For hearing of CMA No. 1704/2020 (Stay)
2. For hearing of main case

28th April 2023

Mr. Muhammad Ibrahim, advocate for the appellants.
M/s. Muhammad Qaiser Qureshi and Tajammul Hussain Lodhi,
advocate for respondents No. 1 to 7.

Heard learned counsel for the respective parties.

While emphasizing on page 61, which is judgment of the trial Court, it appears that present appellant filed written statement before the trial Court while raising plea that he had purchased this property through registered Sale Deed and he is bonafide purchaser of this property. Admittedly, out of his pleadings no issues were framed. However, the respondent No.1 had also filed Suit No. 195 of 2009 for specific performance. Needless to mention that when specific plea has been raised by the appellant that he is owner of the property, trial Court was under obligation to frame the issues in addition to the issues already framed with respect of respondent No.1 and respondent No.8 Hajira Begum but such exercise was not acted upon as well as learned appellate court has also failed to examine this aspect of the matter. This is a case of *denovo* trial, consequently, impugned judgments are set aside and case is remanded for *denovo* trial with direction to frame the issues afresh while considering the pleas of the respective parties and decide the fate of sale agreement and bonafide purchaser as per evidence and guidelines provided by this Court as well as apex Court. However, in the meantime no third party interest shall be created under the doctrine of *lis pendence*. Since *lis* is pending since 2009, therefore, the trial Court shall proceed the fate within four months.

Instant appeal stands disposed of.

J U D G E