

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI
R.A. No. 172 of 2009

Date	Order with signature of Judge
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1. For order on CMA No.4741/2023
2. For order on CMA No.4742/2023
3. For hearing of CMA No.2851/2023

10.07.2023

Khawaja Shams ul Islam, Advocate for the applicant.
M/s. Haider Waheed and Ahmed Masood, Advocates for the applicant.

1. Granted.
3. Through instant application moved under Section 12(2) CPC Mr. Saleem Zakariya Moosani and other individuals have sought directions to recall this Court's order dated 06.03.2023 perusal of which order shows that it was passed in the presence of Mr. Moosani after a threadbare consideration of the matter and the dispute between the parties lingering on since the year 2009 where both the sides to which the beneficiary it was Mr. Saleem Zakariya Moosani and it was mutually agreed as under:-

“It is respectfully submitted on behalf of the Applicants and Respondent No.1 that they have amicably resolved the dispute in the terms that the Applicant Mecca Masjid Trust is validly constituted lawful trust and its trustees/members shall have absolute right/authority with full power to run the management, affairs of Mecca Masjid and Madrassa therein situated at plot No. 27-A, Adamjee Nagar, Tipu Sultan road, Karachi, including but not limited to reconstruct, renovate and beautify Meccas Masjid and the Madrassa and Respondent No.1 shall have no authority/right to claim over the Mecca Masjid as well as the Trust and shall have no right to interfere in the management of Mecca Masjid and its Trust. It is also agreed and settled between the parties that

the judgment dated 22.07.2009 and decree dated 25.09.2009 passed in Civil Appeal No. 114/1996 by the learned VIth Additional District & Sessions Judge Karachi East and the judgment dated 28.8.1996 and decree dated 4.9.1996 passed in suit No. 220/1991 by the learned VIIth Senior Civil Judge Karachi East shall also be set aside having no legal effect. Consequently, the suit No.220/1991 filed by respondent No.1 shall be dismissed with no order as to cost. No relief has been claimed against respondent No.2 who is the custodian of the Record of Rights with whom the Applicant has been registered.

However, Mr. Moosani has chosen to allege that above order was obtained by misrepresentation and concealment of facts. Since Mr. Moosani was personally present when order dated 06.03.2023 was passed his attendance was sought through courts order as what grievance was caused to him as he at that time had no objection to the consent between the parties where it was agreed that plot of land marked as 27-A Adamjee Nagar, Tipu Sultan Road, Karachi (admeasuring approximately about 7,500 square yards) would be given under the sole management of Mecca Masjid Trust and it was clearly agreed that the Kathiawar Cooperative Housing Society would have no objection for any reconstruction, renovation or other beautification initiative of the Mecca Masjid Trust and the Madrassa on the said plot, however, per learned counsel for the applicant (who later on chose not to represent Mr. Moosani) stated that, subject order only suggested that the portion of Plot 27-A will be continued to be used by Mecca Masjid/Madrassa Trust while the remaining commercial activities in the form of various shops will continue in the periphery of the plot, but when his attention was drawn to the order which clearly shows that management and affairs of the said plot No.27-A were given in the hands of Mecca Masjid Trust alone, which matter was also conceded by Mr. Moosani who is secretary of the

Society, learned counsel states that Mr. Moosani did not sign the agreement which fact is devoid of merits because on 06.03.2023 this matter was heard twice and in the second half Mr. Moosani was present and he was asked as to whether he concedes to such an agreement, to which he yielded an absolute “yes”. Now Mr. Moosani alongwith some other likeminded individuals have chosen to challenge the said consent order and to bring the entire efforts to resolve the long pending dispute between Masjid and the Society to a nullity. Mr. Moosani was unable to satisfy me as to his locus standi, as it now appears that he has joined the rival forces and intends that commercial activities be let to continue around the Mosque and Madarsa notwithstanding that Plot 27-A is an amenity plot itself. If there is anyone who has played fraud and misrepresentation with the Court, that is nonelse but Mr. Moosani himself.

I in these circumstances find this initiative of Mr. Moosani and his other likeminded individuals mischievous, unwarranted, contemptuous as well as abuse of the process of law, hence dismiss this application and meanwhile direct the Registrar of this Court to take appropriate action under relevant Sections of chapter 11 of the Pakistan Penal Code by lodging a complaint before the concerned Court against Mr. Moosani.

M/s. Haider Waheed and Ahmed Masood requested for withdrawal of their Vakalatnama. The request is allowed.

2. Becomes infructuous.

JUDGE