

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
C. P. No. D-3727 of 2023

Date	Order with signature of Judge
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FRESH CASE.

1. For orders on Office Objection.
2. For hearing of main case.

06.09.2023.

Mr. Liaquat Ali Khan, Advocate for the Petitioners.

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**YOUSUF ALI SAYEED, J. -** The Petitioners have invoked the jurisdiction of this Court under Article 199 of the Constitution, impugning the Order dated 08.03.2023 made by the learned Additional District & Sessions Judge-XII/Model Civil Appellate Court, Karachi, South, dismissing Civil Revision Application No.123/2022 filed by them against the Order passed by the learned IXth Senior Civil Judge, Karachi, South on 22.08.2022 in Civil Suit No.987/2020, whereby their Applications under Section 12 (2) CPC and Order 1, Rule 10 CPC were dismissed.

2. As it transpires that the Petitioners were not party to the Suit, which was filed by the Respondents No.1 against the Respondent No. 2, with the former thereby seeking declaration of her title in respect of the immovable property as well as cancellation of a Sale Deed said to have been wrongly executed in favour of the latter, with the matter proceeding ex parte and coming to be decreed in terms of a Judgment dated 06.09.2021.

3. The case of the Petitioners is that they are bona fide purchasers of the property in question, having derived their title from the Respondent No.2, but were not made parties to the Suit and only came to know thereof following the judgment and decree, hence resorted to the aforementioned Applications.

4. Having examined the matter, we have observed that the crux of the matter is that the Respondent No.2 apparently held no title over the property in question as on the date of execution of the Sale Deed in favour of the Petitioners. This aspect has been addressed in Paragraphs-12 and 13 of the Order of the Revisional Court, which read as follows:-

*“12. As regard, claim of lawful transfer of the Suit Property in the name of Applicants through registered Sale Deed dated 18.10.2021 and Defendant No.1/Respondent No.2’s claim that they have purchased Suit Property after payment of huge amount of Rs.10,000,000/- from Defendant No.1/Respondent No.2 and perusal reveals that Sale Deed was executed & registered in favour of the Appellants/Intervenors on 18.10.2021 by the Defendant No.1/Respondent No.2, after passing of judgment & decree dated 06.09.2021 & 07.09.2021 respectively in Civil Suit No.987/2020. It would be noteworthy to mention that as on 18.10.2021, title document/sale deed in favour of Mrs. Sajida Perveen/Defendant No.1/Respondent No.2 was already cancelled by the Civil Court in Civil Suit No.987/2020, therefore, Applicants/Intervenors had no locus standi to file application under Section 12 (2) CPC, rather, cause of action accrued to the Applicants/Intervenors, if any, was against the Mrs. Sajida Perveen and Applicants/Intervenors ought to have invoked indemnification clause of the Sale Deed.*”

13. Appraisal shows that Sale Deed dated 18.10.2021 in favor of the Applicants/Interveners was registered by Sub-Registrar-I, Jamsheed Town, Karachi, who was impleaded as Defendant No.2 in the Suit No.987/2020 and a notice of institution & pendency of Suit was delivered/served upon Defendant No.2, therefore, transaction of sale between Defendant No.1/Respondent No.2 and Applicant/Interveners, was/is hit by doctrine of *lis pendens* under Section 52 of the Transfer of Property Act, 1882.”

5. On that score, we had specifically posed a query to learned counsel for the Petitioners as to whether the attendant fact and circumstances were indeed as recorded in the aforementioned paragraphs, in response to which he acknowledged and confirmed that it was so.

6. As such, it is apparent that the case sought to be advanced by the Petitioners is misconceived, being squarely hit by the principle enshrined in the maxim *nemo dat quod non habet*. Hence we see no perversity or illegality afflicting the Orders of the fora below warranting interference. The Petition accordingly stands dismissed *in limine*.

JUDGE

JUDGE

MUBASHIR