

# IN THE HIGH COURT OF SINDH AT KARACHI

## H.C.A. No.114 of 2021

### PRESENT:

*Mr. Justice Aqeel Ahmed Abbasi*  
*Mr. Justice Mahmood A. Khan*

### Hearing/Priority Case

1. For orders on office objection/reply.
2. For hearing of CMA No.1389/2021.
3. For hearing of main case.
4. For hearing of CMA No.1391/2021.

Date of hearing : 17.03.2022  
Date of order : 17.03.2022  
Appellant : Muhammad Ashfaq  
through Mr. Raham Ali Rind,  
Advocate.  
Respondent No.1 : Respondent No.1 Tanzeem  
Ahmed Khan in person  
Respondent No.10 : through Mr. Shakeel Ahmed  
Khan, Advocate and  
Mr. Imran Ahmed Abro,  
Asstt. A. G. Sindh.

### J U D G M E N T

**AQEEL AHMED ABBASI, J:-** Instant High Court Appeal arises from the combined impugned judgment dated 02.06.2021 and decree dated 03.03.2021 passed by the learned Single Judge of this Court in Suit Nos.995 of 2010 and 288/2014, whereby, Suit No.995/2010 filed by the respondent No.1, Tanzeem Ahmed Khan, has been decreed to the extent of prayer clauses (a), (c), (d), (e) and (f) with the directions to the respondent No.10 M/s. Central Information Employees Cooperative Housing Society Limited, Karachi, to execute proper lease in favour of the respondent No.1 in respect of suit property i.e. Plot No.B-22, Sector 36-A, KDA

Scheme No.33, Gulzar-e-Hijri, Karachi, admeasuring 400 sq. yards, situated at M/s. Central Information Employees Coop. Housing Society Ltd., Karachi, within thirty (30) days and to handover its peaceful possession to respondent No.1, whereas, in case of their failure, Nazir has been directed to complete transaction within thirty (30) days in accordance with law, whereas, the Suit No.288/2014 filed by the appellant against respondent No.1 seeking declaration, cancellation and damages, the plaint of which was already struck off under Rule 128 of Sindh Chief Court Rules (O.S) vide order dated 27.05.2014, learned Single Judge, while summarizing the relevant facts pertaining to Suit No.288/2014 has been pleased to dismiss the same in the following terms:-

“However, diary of Additional Registrar dated 27.05.2014 shows that summons were not issued to defendants No.1 to 12 as cost was not paid since 17.2.2014 and therefore, the plaint was struck off under Rule 128 of SCCR(O.S). Then after four years on 21.3.2018 defendant No.7 in his suit No. 288/2014 filed an application under Section 151 CPC for recalling of orders dated 27.5.2014 (CMA No. 4508 of 2018). However, without any orders on the said application and disclosing that his suit No. 288/2014 was struck off, he requested the Court for direction to the office to fix his suit No. 288/2014 alongwith suit No. 995 of 2010. He never pressed his CMA No.4508 of 2018 which is dismissed for non-prosecution and also for the reasons that the instant suit No. 995 of 2010 is decreed today through this judgment.”

2. Brief facts of Suit No.995/2010 as recorded by the learned Single Judge are that Plot bearing No.B-22, admeasuring 400 square yards, situated at Sector 36-A, KDA Scheme No. 33, Gulzar-e-Hijri, in Central Information Employees Cooperative Housing Society Ltd. (C.I.E.C. Society) Karachi, (the Suit property)

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was allotted to the father of the plaintiff, namely, Laddan Khan, founder Member of C.I.E.C. Society against receipt No.128 dated 09.08.1977, vide allotment order Book No.1, at serial No.066. During his lifetime, father of the plaintiff on 09.02.1989 had authorized the plaintiff to deal with the affairs of the suit property including payments of all dues related to the costs of land etc. and it was also requested to the Founder Chairman of the Society through letter dated 09.02.1989 that the plaintiff will make the payment of all 16 installments against cost of land and thereafter final allotment order, possession order and lease deed be issued in favour of the plaintiff. The said request was accepted by the Founder Chairman being competent authority as per clause 15(1) and 15(3) of their Bye-Laws of C.I.E.C. Society. However, in the year 2009 the Government of Sindh superseded C.I.E.C. Society and appointed defendant No.4 as its Administrator. The said order of superseding C.I.E.C. Society was challenged by several members of C.I.E.C. Society before a Divisional Bench of this Court by filing a Constitutional Petition i.e. C.P. No.D-664/2010, wherein, pursuant to Court's order, defendants were restrained from creating third party interest in the property of the Society vide order dated 07.04.2010. It has been stated in the plaint that C.I.E.C. Society from time to time issued bills for payments of various dues to the plaintiff in respect of the said plot and the payments were accordingly made by the plaintiff, which were duly received / acknowledged by the C.I.E.C. Society. It has been submitted that on 17.03.2010 the plaintiff was astonished to read an advertisement published in daily newspapers whereby some Wasif property center on behalf of defendant No.6 invited objections in respect of completion of sale transaction of the suit property/plot

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with defendant No.5. In the said advertisement defendant No.5 was shown as allottee/owner of the suit property. The plaintiff immediately filed objection in the office of defendant No.4 in writing, however, the Administrator of the society refused to receive the same and in connivance with defendants No. 1, 3, 5, 6, 7 and 9 committed forgery, fraud and by sheer misuse of his authority cancelled the plot of the plaintiff. Against such illegal cancellation, the plaintiff lodged complaints against defendant No.4 to defendants No.1 and 3 but no action was taken by them and the plaintiff also published public notice in daily Amn Karachi dated 23.3.2010 to bring the matter in notice of high ups but no heed was paid. It has been further stated by the appellant to the effect that defendant No.4 has illegally executed lease deed in the office of defendant No.9, therefore, the action of defendant No.4 in respect of cancellation of the suit property and execution of lease deed on 07.4.2010 was also in violation of the order dated 16.3.2010 by this Court in C.P.No.D-664/2010, therefore, cancellation of appellant was illegal and liable to be set aside. It has been further submitted that private defendants with the connivance with the official defendants have started raising construction on the suit property without approval of building plain from the competent authority viz. defendant No.2, therefore, the plaintiff through letter dated 19.05.2010 also intimated defendant no.2 with a request to demolish the illegal construction on the suit property and the said letter was also sent to KBCA but no response was received from them. The plaintiff having no other option, filed application before Ombudsman of Sindh on 18.03.2010. The said application was admitted for investigation and was referred to Regional Director, Karachi Central, who by letter dated 26.3.2010 asked defendant

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No.3 to direct the concerned officer to submit report before 03.4.2010 but no response was made from the defendants. Thereafter the Ombudsman, Sindh summoned defendants No.3 and 4 to appear in person for hearing on 17.5.2010 alongwith all relevant record and the documents but defendants No.3 and 4 did not appear before him. The plaintiff by letter dated 20.05.2010 requested to pass a restraining order for execution of lease deed of the suit property and an application for urgent hearing was also filed by the plaintiff to decide the issue of ownership of the suit property but no action has been taken. It was further stated in the plaint that since the official defendants committed the offence of forgery, fraud and misuse of their official powers and also flouted the order dated 16.3.2010 passed by this Court in C.P.No.D-664/2010, therefore, the provisions of Section 54, 70 and 70-A of the Cooperative Societies Act, 1925 are not applicable in the case of the plaintiff, and the plaintiff filed the instant suit and sought the following reliefs:-

- a) Declaration that the plaintiff is owner of Plot No. B-22, Central Information Employees Co-operative Housing Society Ltd., admeasuring 400 square yards, situated in Sector 36-A, Scheme 33, Gulzar-e-Hijri, Karachi.
  - b) Declaration that the plaintiff is responsible for the payment of dues in the sum of Rs.52,000/- and Rs.146,000/- KESC Charges totaling Rs.198,000/-
  - c) Permanent injunction restraining the defendants, their agents, servants, attorney, assignees and/or any person acting for and/or on their behalf from claiming any right title or interest in plot No. B-22, Central Information Employees Co-operative Housing Society Ltd., admeasuring 400 sq. yards, situated in Sector 36-A, Scheme 33, Gulzar-e-Hijri, Karachi, and from interfering into the right of the plaintiff as owner of the said plot.
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d) Cancellation of Lease Deed vide No. 1608 dated 07.04.2010 before Sub-Registrar, Gulshan-e-Iqbal-II, Karachi Computer No. 14807 BOR-13, in favour of defendant No. 7, Muhammad Ashfaq and all the registered and/or un-registered documents orders passed by the official defendants in favour of the private defendants No. 5, 6 and 7 in respect of Plot No. B-22, Central Information Employees Co-operative Housing Society Ltd., admeasuring 400 sq. yards, situated in Sector 36-A, Scheme 33, Gulzar-e-Hijri, Karachi.

e) Direction to the official and non-official defendants to hand over the possession of the Plot No. B-22, Central Information Employees Co-operative Housing Society Ltd., admeasuring 400 sq. yards, situated in Sector 36-A, Scheme 33, Gulzar-e-Hijri, Karachi, to the plaintiff forthwith.

f) Direction to the defendant No.4 and/or defendant No. 10's secretary to execute Lease Deed in favour of plaintiff within 30 days on their failure to do so, Nazir of this Honourable Court may be authorized to execute Lease Deed on behalf of defendant Society before concerned Sub-Registrar in favour of the plaintiff the charges of execution of Lease Deed be borne by the plaintiff.

g) Defendants may be directed to make the payment of Rs.20 million jointly and severally as damages to the plaintiff.

h) Any other better relief(s) which this Honourable Court may be pleased to deem fit and proper under the circumstances of the case.

i) Award Costs of the Suit.

3. Thereafter, the main contesting defendant No.7 also filed counter suit No.288/2014 on 17.02.2014 for Declaration, Cancellation of Documents, Recovery of Damages of Rupees Two Crores and Permanent injunction against the plaintiff of Suit No.995/2010 and others, wherein, following relief has been sought:-

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- a) To declare that the plaintiff is sole, exclusive and absolute owner of suit property by virtue of Lease Deed dated 07.04.2010.
- b) To cancel the provisional allotment order of defendant No.1 for instant of subject property.
- c) To direct the defendant No.3 to issue approval of layout plan in respect of subject property in favour of the plaintiff after completing the entire formalities according to law.
- d) To direct the defendants to pay the damages of Rs.Two Crore jointly or severally on account of uncountable expenses born by the plaintiff in respect of subject property and also sustaining grate mental agony by facing the illegal act and proceedings of the defendants.
- e) To restrain the defendants, their legal heir, legal representatives, agent, subordinate, servants, and any body claiming ownership of the subject property.
- f) Costs of the Suit.
- g) Any other better relief(s) as this Hon'ble Court may deem fit and proper under the circumstances of the case."

4. However, since the appellant did not pursue Suit No.288/2014 filed against respondent No.1 the same has been dismissed by the learned Single Judge in the terms as reproduced in paragraph 1 hereinabove, therefore, we will examine the merits of the case as well as the legal issue, if any, for disposal of instant High Court Appeal, keeping in view the contention of the learned counsel for the parties and the material available on record. The learned Single Judge after detailed scrutiny of the record decided to proceed on the basis of issues in both the suits on the basis of evidence and material adduced by the parties before the learned Single Judge in accordance with law. Learned counsel for the appellant has argued that the impugned judgment and decree have been passed without appreciating the fact that the appellant is a

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bonafide purchaser of the subject property pursuant to lease deed No.1608 dated 07.04.2010, whereas, respondent No.1 has no legal title in respect of subject property, as the allotment in his favour was cancelled by the Society. Per learned counsel, thereafter the subject plot was allotted to one Adeeluddin son of Naseemuddin, respondent No.6, from whom the appellant has purchased subject plot through a sale agreement, whereafter, lease deed was also executed and name of the appellant was mutated in the record of the Society and the possession was also handed over to the appellant. According to learned counsel for the appellant, the appellant also started to raise construction while submitted the plan for its approval to the concerned Authority, however, in view of order dated 06.07.2021, passed by the learned Single Judge in Suit No.995/2010, whereby, application filed by the appellant seeking permission to allow the appellant to raise construction on his own risk and cost, was dismissed and construction could not be completed. It has been further contended by the learned counsel for the appellant that the appellant has not been able to adduce his evidence and to produce the relevant documents showing his right and title on the subject property, for the reason that the plaint of the appellant in Suit No.288/2014 was struck off vide order dated 27.05.2014 passed by the Additional Registrar under Rule 128 of the Sindh Chief Court Rules (O.S), whereas, the appellant filed an application under Section 151 CPC (CMA No.4508/2018) for recalling of the order dated 27.05.2014, however, the said application has been dismissed for non-prosecution by the learned Single Judge while passing the impugned judgment and decree, consequently the suit of the respondent No.1 has been decreed. According to learned counsel for the appellant, since the appellant

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is a bonafide purchaser, who has acquired right and title of the subject plot through registered sale deed, therefore, the learned Single Judge was not justified to ignore this aspect of the matter and to dismiss the suit of the appellant without recording evidence and deliberating upon the merits of the case. It has been prayed that the impugned judgment and decree may be set-aside and matter may be remanded back to the learned Single Judge to decide both the suits afresh after allowing the appellant to adduce evidence in support of his claim and thereafter pass appropriate judgment and decree on merits.

5. Conversely, respondent No.1, namely, Tanzeem Ahmed Khan present in person has vehemently opposed and denied the submissions made by the learned counsel for the appellant and submitted that he is the owner and original allottee, who has paid the entire amount to words cost of subject plot, whereas, appellant is neither a bonafide purchaser of the subject plot nor has been able to establish his claim by producing evidence either before the learned Single Judge or even before this Court in the instant appeal. It has been contended by the respondent No.1 that admittedly subject plot was allotted by M/s. Central Information Employees Coop. Housing Society in the name of his father (Laddan Khan), who was one of the pioneer Member and Secretary. According to respondent No.1, on 03.04.1986 the entire cost of the land including development charges were paid in full to the Society, whereafter, said plot was transferred in his name during life time of his father, whereas, only KESC charges were outstanding, which the respondent was always ready and willing to pay, however, the Society also demanded other illegal charges,

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which were seriously disputed by the respondent, who had filed the complaint before the Provincial Ombudsman (Mohtasib) Sindh, however, since the respondents were not coming forward to attend the proceedings before the Provincial Ombudsman (Mohtasib) Sindh, the said complaint was withdrawn and respondent was constrained to file Civil Suit No.995/2010 while seeking the following relief:-

- a) Declaration that the plaintiff is owner of Plot No. B-22, Central Information Employees Co-operative Housing Society Ltd., admeasuring 400 square yards, situated in Sector 36-A, Scheme 33, Gulzar-e-Hijri, Karachi.
  - b) Declaration that the plaintiff is responsible for the payment of dues in the sum of Rs.52,000/- and Rs.146,000/- KESC Charges totaling Rs.198,000/-
  - c) Permanent injunction restraining the defendants, their agents, servants, attorney, assignees and/or any person acting for and/or on their behalf from claiming any right title or interest in plot No. B-22, Central Information Employees Co-operative Housing Society Ltd., admeasuring 400 sq. yards, situated in Sector 36-A, Scheme 33, Gulzar-e-Hijri, Karachi, and from interfering into the right of the plaintiff as owner of the said plot.
  - d) Cancellation of Lease Deed vide No. 1608 dated 07.04.2010 before Sub-Registrar, Gulshan-e-Iqbal-II, Karachi Computer No. 14807 BOR-13, in favour of defendant No. 7, Muhammad Ashfaq and all the registered and/or un-registered documents orders passed by the official defendants in favour of the private defendants No. 5, 6 and 7 in respect of Plot No. B-22, Central Information Employees Co-operative Housing Society Ltd., admeasuring 400 sq. yards, situated in Sector 36-A, Scheme 33, Gulzar-e-Hijri, Karachi.
  - e) Direction to the official and non-official defendants to hand over the possession of the Plot No. B-22, Central Information Employees Co-
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operative Housing Society Ltd., admeasuring 400 sq. yards, situated in Sector 36-A, Scheme 33, Gulzar-e-Hijri, Karachi, to the plaintiff forthwith.

f) Direction to the defendant No.4 and/or defendant No. 10's secretary to execute Lease Deed in favour of plaintiff within 30 days on their failure to do so, Nazir of this Honourable Court may be authorized to execute Lease Deed on behalf of defendant Society before concerned Sub-Registrar in favour of the plaintiff the charges of execution of Lease Deed be borne by the plaintiff.

g) Defendants may be directed to make the payment of Rs.20 million jointly and severally as damages to the plaintiff.

h) Any other better relief(s) which this Honourable Court may be pleased to deem fit and proper under the circumstances of the case.

i) Award Costs of the Suit.

6. It has been argued by the Respondent No.1 that all the relevant facts have been recorded in the impugned judgment passed by the learned Single Judge in detail, which established that how through fraud and misrepresentation the then Administrator of the Society illegally cancelled the plot and allotted the same to 3<sup>rd</sup> party in total violation of law, therefore, a criminal case was registered against the Administrator before the National Accountability Bureau (NAB) through a Reference No.46/2014 in NAB Court, wherein, he was convicted for 14 years and fine of Rs.13 million for having committed fraud and forgery into the record of the Society on the charges of illegal cancellation, allotment and selling out the plots including the subject plot and subsequent sale and lease to 3<sup>rd</sup> party for his personal benefit. The respondent No.1 has referred to all the relevant documents, which were produced by him in evidence before the learned Single Judge as detailed at type

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page 11 and 12 of the impugned judgment. While concluding his submissions, respondent No.1 submits that he being a man of advance age and infirm health has already undergone the agony of running from pillar to post against the illegal acts of the Administrator of the Society during all these years and has ultimately been able to succeed by filing a Suit No.996/2010 before the learned Single Judge of this Court through impugned judgment and decree, which according to him, do not suffer from any error or illegality, whereas, the appellant has not been able to make out prima-facie case in his favour, therefore, requests that instant High Court Appeal may be dismissed and the appellant may be directed to handover the vacant possession of the subject plot of the Society pursuant to judgment and decree passed by the learned Single Judge in the instant case.

7. During course of hearing instant High Court Appeal, Notices were also issued to the Secretary, Central Information Employees Coop. Housing Society, Karachi, as well as to the Assistant Advocate General Sindh pursuant to which Mr. M. A. Khan, Secretary of the respondent Society has shown appearance along with his counsel Mr. Shakeel Ahmed Khan, Advocate, whereas, Mr. Imran Ahmed Abro, AAG Sindh shown appearance on behalf of the official respondents, who have supported the impugned judgment and decree and have also verified the right and title of the respondent No.1 in respect of the subject plot/property. It has been contended by the learned counsel for the Society that the cancellation of the subject plot in the name of respondent No.1 and its subsequent transfer by the then Administrator of the Society was totally illegal and without lawful authority, whereas, the said

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Administrator has already been convicted by the NAB Court on corruption charges as pointed out by the respondent No.1. Learned AAG Sindh has also argued that since the plaint of the appellant was struck off, who did not pursue the Suit and at no occasion sought for recalling or modification of the said order, therefore, the appellant otherwise is not entitled to any relief in the instant High Court Appeal. It has been argued by both the learned counsel that instant appeal has no merits and liable to be dismissed.

8. We have heard the learned counsel for the parties, perused the impugned judgment and the record with their assistance, which shows that respondent No.1, namely, Tanzeem Ahmed Khan, filed a Suit No.995/2010 against the present appellant along with all the relevant parties seeking declaration, injunction, cancellation of documents, recovery of possession of subject plot i.e. B-22, Sector 36-A, KDA Scheme No.33, Gulzar-e-Hijri, Karachi, admeasuring 400 sq. yards, situated at M/s. Central Information Employees Coop. Housing Society Ltd., Karachi, which was allotted to the father of the plaintiff, namely, Laddan Khan, against founder Membership Receipt No.128 dated 09.08.1977 vide allotment order Book No.1 at Sr. No.066 dated 03.04.1986. During his lifetime, the father of the respondent No.1 authorized and nominated respondent No.1 to deal with the affairs of the plot including payment of all dues related to the cost of land, whereas, vide letter dated 09.02.1989, it was further intimated that respondent No.1 had made payment of all sixteen (16) installments towards cost of land, and, therefore, it was requested that on the completion of required development work of the society final allotment order, possession and lease deed of subject plot may be issued in favour of the

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respondent No.1. Such request was duly accepted by the former Chairman of the Society in terms of bye-laws clause 15(1) and 15(3) of the Society. However, in the meanwhile, an Administrator was appointed by the Government of Sindh by superseding the management of the Society, which was challenged before this Court through Constitutional Petition No.D-664/2010 on 16.03.2010, wherein, the Divisional Bench of this Court was pleased to pass an interim order dated 07.04.2010, which reportedly remained operative till filing of the suit to this effect in the following terms:-

*“you are further directed that in the mean time, respondents shall not incur any expenses other than essential or incidental. No third party interest to be created in respect of the property of Society till next date.”*

It appears that point of difference arose between the respondent No.1 and the Society when the Secretary raised an exorbitant demand of Rs.345,740/- vide letter No.CIEHS/NOT/02/08 dated 11.06.2008, whereas, according to respondent, he was willing to deposit the actual sum of Rs.52,000/- towards dues and amount of Rs.146,000/- being KESC charges totaling Rs.198,000/- only, whereafter, the remaining balance towards cost of land in the sum of Rs.16,000/- was paid vide pay order No.0675343 dated 01.12.2009, therefore, only electricity charges were required to be paid by the respondent. However, it appears that after appointment of the Administrator, serious illegalities were committed by the then Administrator, who through fraud and misrepresentation cancelled lawful allotments of the Members, including the plot of the respondent No.1 without assigning any reason or providing

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opportunity of being heard to the allottees, and thereafter, sold out the said plot to the 3<sup>rd</sup> parties. However, when the respondent No.1 came to know about the cancellation and subsequent sale of plot to defendant No.6 in Suit No.995/2010 through advertisement published in Newspaper on 17.03.2010, he filed a complaint in writing in the office of the then Administrator of the Society, who instead of entertaining such complaint refused to accept such objections or take any action, thereafter, respondent lodged a complaint against defendant No.1, 3 and 4, but of no avail, therefore, the respondent filed the Suit before the learned Single Judge of this Court seeking the relief as detailed hereinabove paras of this judgment. The learned Single Judge, while having taken stock of all the material facts, and after examination of the detailed record of the Society and the evidence produced by the parties consolidated both the Suit and formulated following combined issues:

- “1. Whether the suit of the plaintiff is not maintainable in law?
  2. Whether no cause of action has accrued to the plaintiff against the defendants?
  3. Whether the defendant No.7 is a bonafide purchaser and is asserting his right on the basis of forged documents in respect of suit property?
  4. Whether the defendant No.7 has raised construction over suit property in accordance with the approved building plan granted or sanctioned by the Competent Authorities?
  5. Whether the defendants No.1 to 6 were/are duty bound to assist plaintiff for conveying suit plot in respect whereof the plaintiff possesses the entire payment receipts and title documents, if yes, its effects?
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6. Whether the plaintiff is entitled for demolition/removal of unauthorized/un-permissive structure/construction existing over suit plot?
7. Whether the Lease Deed No. 1608 dated 07/04/2010 in favour of defendant No.7 is liable to be cancelled?
8. Whether the plaintiff is entitled for recovery of possession of Plot No. B-22, measuring 400 sq. yards, Central Information Employees Cooperative Housing Society Ltd, situated Sector 36-A, Gulzar-e-Hijri, Karachi?
9. Whether the plaintiff is entitled for the relief of damages as claimed, if yes, to what extent?
10. What should the decree be?

9. After framing of issues in the above terms, evidence was led by the parties and, thereafter, both the suits have been decided through impugned judgment, which has been assailed by the appellant on the grounds as referred to hereinabove. From perusal of the impugned judgment passed by the learned Single Judge, it appears that consolidated issues formulated in both the suits have been dealt with and decided in detail by the learned Single Judge on the basis of evidence produced by the respondent No.1 in support of his claim in Suit No.995/2010 in the shape of oral as well as documentary evidence as detailed in Para: 11 & 12 of the impugned judgment, while deciding issues No. 5, 7 & 9, which remained un-rebutted, as the appellant inspite of repeated opportunities having been provided for cross-examination of the respondent No.1, the appellant chosen not to cross-examine the witness or rebut to the evidence produced by the respondent No.1. The appellant has also failed to adduce his evidence or produce any documents either to dispute the claim of the respondent No.1 in

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Suit No. 995/2010 or to support his claim in Suit No. 288/2014, which was duly struck off by the Additional Registrar (OS) vide order dated 27.05.2014 and was eventually dismissed for non-prosecution and also for the reason that Suit No.995/2010 filed by respondent No.1 was decreed through impugned judgment. The appellant in the instant High Court Appeal did not bother to get the aforesaid order recalled/set-aside, and after having filed application for such purpose, which was prima facie time barred, did not pursue the same, which was also dismissed for non-prosecution. The learned Single Judge has also taken cognizance of the proceedings before the NAB Authorities, which was duly attended by the respondent No.1 and the order of conviction was passed against the then Administrator of the Society by holding that the Administrator of the Society has committed fraud and forgery in the affairs of the Society, and illegally cancelled the allotments of plots in violation of law. The respondent No.1 has established his right and entitlement over the subject plot through evidence, which remained un-rebutted, whereas, it has also been established that inspite of having paid the entire amount towards cost of land and other charges, the subject plot of the respondent No.1 was cancelled illegally and without lawful authority, therefore, the finding of the learned Single Judge to this effect is unexceptional. The appellant has failed to pursue his Suit No. 288/2014, therefore, subsequent execution of lease deed in favour of the appellant on 07.04.2010 was in violation of a restraining order dated 16.03.2010 passed by a Divisional Bench of this Court in C.P. No.D-664/2010 and has been, therefore, rightly declared to be illegal and of no legal effect. The finding as recorded by the learned Single Judge to this effect is unexceptional.

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10. In view of hereinabove facts and circumstances of instant case, we are of the considered view that appellant has failed to establish any lawful claim or right over subject plot/property nor could point out any factual error or legal infirmity in the impugned judgment, which is based on correct appraisal of the evidence and the legal position attracted in the instant case. Accordingly, vide our short order dated 17.03.2022 instant High Court Appeal was dismissed in the following terms:-

*“Heard the parties at great length. For the reasons to be recorded later on, instant High Court Appeal is dismissed alongwith listed applications. However, two months’ time is granted to the appellant to handover peaceful vacant possession of the subject property i.e. Plot No. B-22, Sector 36-A, KDA Scheme No. 33, Gulzar-e-Hijri, Karachi to the Nazir of this Court, who may in turn, handover the same to the respondent No.1, whereas, appellant will be at liberty to take out all his belongings/articles and to remove all such construction on said plot on his own cost and expenses, within two months’ time granted for vacating the suit property.”*

11. Above are the reasons of such short order.

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