

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit 1522 of 2022

Date

Order with signature of Judge(s)

1. For hearing of CMA No.15006/2022.
2. For orders on CMA No.11016/2023.
3. For non-prosecution of CMA No.16074/2022.
4. For non-prosecution of CMA No.16075/2022.
5. For non-prosecution of CMA No.11399/2023.

06.09.2023

Syed Bashir Hussain Shah, advocate for the plaintiff.
Mr. Ali Tahir, advocate for the defendant 3.
Mr. Shehryar Qazi, Additional Advocate General Sindh.

The plaintiff has filed this suit for declaration, possession and permanent injunction in respect of immovable property and the matter is listed for hearing of 5 applications today. While the plaintiff's counsel seeks to assert his rights, the counsel for KMC submits that the plaintiff is *prima facie* seeking to usurp an amenity plot under the garb of the present litigation.

Be that as it may, the present applications seek protection from being dispossessed, inspection and contempt proceedings. Learned AAG has graciously adverted to paragraph 'b' of the prayer clause and submits that it is apparent that the plaintiff himself seeks possession of the suit property, therefore, how could he claim any interim relief predicated upon dispossession therefrom. The plaintiff's counsel remained unable to provide any cogent response thereto and furthermore failed to set forth any *prima facie* case for having been in possession of the suit property.

In view of the foregoing, it is observed that the necessary ingredients for grant of interim relief, i.e *prima facie* case, balance of convenience and irreparable harm, could not be made out before this court, therefore, the application at serial no. 1 and as a corollary serial nos. 3 and 4 are dismissed.

The remaining two applications (at serial nos. 2 and 5), similar in nature without any justification articulated in such regard, seek inspection of the suit property in an effort to demonstrate dispossession of the plaintiff therefrom. Since no case for the plaintiff being in possession of the suit property is made out, therefore, no case is made out for the grant of these applications and the same are hereby dismissed.

JUDGE