

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**H.C.A. No.411 of 2023**

**[Husain Bux Soomro v/s Atta Mohammad Soomro & others]**

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Hearing (priority) case

1. For order on CMA No.989/2024 (U/O I Rule 10 CPC).
2. For hearing of CMA No.5886/2023 (Stay).
3. For hearing of CMA No.5240/2023 (U/S 149 CPC).

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**Dated 08.05.2024**

Appellant Husain Bux Soomro present in person.  
Mr. Hussain Bux Saryo, Advocate for respondent No.1.

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Before us the following impugned order was passed:

“1. Urgency granted.

Plaintiff has failed to file title documents of the suit property in his favour in shape of Conveyance Deed or lease as well as any sale agreement; besides, he has failed to submit proof of sale consideration. Accordingly, plaintiff has no legal Character, hence, plaint is rejected.”

The learned single Judge was of the view that since the inception of the suit the appellant / plaintiff failed to file title documents in the shape of a conveyance deed or lease as well as any sale agreement, therefore, he has failed to establish the legal character, apparently, perhaps in terms of Section 42 of the Specific Relief Act. On this count we are of the view that the plaint cannot be rejected. It may be taken up as an issue which may lead to the dismissal of the suit ultimately but not the way the plaint was rejected at the inception, in view of the consideration of the legal character.

Learned counsel for the respondent No.1 has also not supported the impugned order. He is, however, of the view that

there are other lacunas / legal issues and rights in respect thereof be permitted to be raised before the learned Judge. He is at liberty to take all such legal objections before the learned single Judge which may be considered as preliminary legal objections, however, we set aside the impugned order and restore the suit / plaint.

The appeal is disposed off accordingly alongwith pending applications.

JUDGE

JUDGE

Asif