

**IN THE HIGH COURT OF SINDH,
AT KARACHI**

Suit No. Nil of 2024

Plaintiff in Suit : Mrs. Yagana Dost Muhammad
through Naveed Anjum, Advocate

Defendant No.1 : Khubana Omer, through Aman
Aftab, Advocate

Defendant No.2 : Karachi Development Authority,
through Khursheed Javed
Advocate

Date of hearing : 15.04.2024

ORDER

YOUSUF ALI SAYEED, J.- Upon presentation of the plaint on 13.01.2024, the office has raised an objection as to the maintainability of the Suit in as much as the Plaintiff has impugned a Gift and an Indenture of Lease dating back to 19.05.2007 and 18.04.2019 respectively, with it being observed that the Suit thus appeared to be barred under the Limitation Act, 1908.

2. As it stands, a perusal of the plaint reflects that the case set up by the Plaintiff is predicated on a claim of ownership of a property bearing No. B-75, Block-1, Scheme-36, Gulistan-e-Johar, Karachi, measuring 386.66 Sq.Yds, with it being stated that a 50% share thereof had been transferred by her to her sister, namely the Defendant No.1, by way of the Gift through a Mutation Entry dated 19.05.2007 in the record of the City District Government Karachi, whereafter the Indenture of Lease was issued jointly in their favour by the Defendant No.2, being the Karachi Development Authority, and the principal ground of challenge being that the Gift was defective, in as much as possession of the property was never handed over to Defendant No.1.

3. As such, it has been sought that the Mutation dated 19.05.2007 and Indenture of Lease dated 18.04.2019 be cancelled and the Plaintiff be declared the lawful owner of the property in its entirety.

4. Under the circumstances, it falls to be considered that the Suit is essentially one for cancellation, hence is covered under Article 91 of the Schedule of the Limitation Act, 1908, which prescribes a limitation period of 3 years which begins to run from the date when the facts entitling the plaintiff to have the instrument cancelled or set aside become known to him.

5. Under such circumstances, it is apparent that in the instant case the plaintiff was aware of the relevant instruments from the date of their inception and the prescribed period of limitation lapsed prior to presentation of the plaint. That being so, while sustaining the office objection, the plaint stands rejected accordingly.

JUDGE