

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI.**  
**Suit No. 375 of 2021**

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Dated                      Order with signature of Judge.

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1. For hearing of CMA No.3209/2021
2. For hearing of CMA No.9070/2021

**31.01.2024.**

Mr. Mujtaba Sohail Raja, Advocate for the Plaintiff

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No one is in attendance on behalf of the Plaintiff and no intimation has been received. Learned counsel for the Defendant No.1 points out that such absence has also prevailed on the previous two dates, when notes of caution were recorded. He invites attention to his application under Order VII Rule 11 CPC, bearing CMA No. 9070/21, and submits that the Suit is not maintainable as the controversy in hand has already been adjudicated through Suit No.826 of 2017 before the IInd Senior Civil Judge Karachi East.

A perusal of the plaint filed in the matter at hand reflects that the case of the Plaintiff is predicated on his assertion that he had repurchased the suit property, bearing No. R-531, sector 2-B, situated in Jacob Lines, Madina Road, Karachi, after its sale pursuant to an agreement to sell executed between his late father and Defendant No.1, with the main prayer advanced accordingly being one for specific performance of the alleged agreement of repurchase. However, from the documents annexed along with the plaint, it is apparent that the aforementioned Civil Suit had been filed by the Defendant No.1 against the Plaintiff's father, with the Plaintiff then being brought on record along with the other legal heirs following his demise, and one of the issues that came to be settled in the matter being:-

“(ii). Whether the plaintiff, after purchasing the suit property bearing No. R-531, sector 2-B, situated in Jacob Lines, Madina road Karachi, resold the same to the son of defendant namely Asif?

Vide Judgment 17.04.2019, the aforementioned Issue was answered in the negative with the Civil Suit being decreed in favour of the Defendant No.1 and Civil Appeal No.168 of 2019 before the District and Sessions Judge Karachi East and IInd Appeal No.19 of 2021 before this Court both culminating in dismissal.

Under such circumstances, the present Suit is found to be barred under the doctrine of *res judicata*. Hence, CMA No. 970/21 stands allowed with Plaint being rejected accordingly, and CMA No.3209 of 2021 consequently being dismissed.

**Judge**