

IN THE HIGH COURT OF SINDH AT KARACHI

J.M. NO.20/2020

Applicant : Junaid Makda.
Through Mr. Yousuf Makda advocate.

Respondents : Ismail Memorial Trust and others.
Through Mr. Muhammad Umar Lakhani
advocate for respondent No.1.
Ms. Naveed Akhtar advocate for KMC.
Mr. Zahid Farooq Mazari, AAG.

**ALONGWITH
EXECUTION APPLICATION NO.14/2020**

Decree Holder : M/s. Ismail Memorial Trust.

Judgment Debtors: Karachi Cooperative Housing Societies Union
Limited and others.

Date of hearing : 19.11.2022.

Date of announcement : 22.12.2022

ORDER

SALAHUDDIN PANHWAR, J. Through instant application, respondent No.1 seeks modification of order dated 07.12.2021. Perusal of that order reflects that matter was fixed for hearing of instant J.M. however learned counsel for applicant referred order of the apex court passed in C.P. No.9/2010 containing therein that this matter pertains to an amenity plot and issue is pending before the apex court. Accordingly, interim order was modified in terms of the apex court's order with further observation that this order shall not be treated as operative in case same is in conflict with the observations or decision of the apex court as referred.

2. Counsel for applicant insists that this J.M. may be heard and decided and that aspect can be agitated by the counsel for the applicant as well this court may examine that aspect; whereas issue in question is not pertaining to the issue before the apex court. Besides, he has contended that if subject matter property is being declared an amenity by the apex court, that will have effect upon the rights of both parties hence there is no harm to hear instant J.M.

3. Mr. Yousuf Makda, associate of Mr. Khalid Javed counsel for applicant, vehemently opposed this application by referring earlier order with further contention that the matter is subjudiced before the apex court.

4. Since this J.M. is pending for consideration and point raised by learned counsel for respondent pertains to order dated 07.12.2021 can be agitated/examined by this court therefore by putting embargo that matter pending here shall not be decided until reaching on conclusion on merits whereas matter in in-question case is pending before the apex court; accordingly order dated 07.12.2021 is modified; interim order passed earlier to continue. Review application is decided in above conditions. Parties shall proceed with the J.M. on next date of hearing.

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