

ORDER SHEET
HIGH COURT OF SINDH AT KARACHI

Suit No.876 of 2024

Date	Order with signature of Judge(s)
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For orders as to maintainability of suit

21.10.2024

Chaudhry Abdul Rasheed, advocate for the plaintiff

This suit appears to be fraught with issues with respect to maintainability as observed from the office objection, pertinent content whereof is reproduced herein below :

1. *Plaintiffs have admitted the Indenture of Sub Lease Registered No.3547 dated 03-12-2018 was voluntarily executed in favor of Defendant No.1 and since then the same property is registered against the said Defendant. In such a situation the Plaintiffs have to satisfy as to how the cause of action accrued in favor of the Plaintiffs as the suit in hand falls within the ambit of Order 7 Rule 11 CPC.*
2. *The Plaintiffs are seeking cancellation of Indenture of Sub Lease Registered No.3547 dated 03-12-2018 executed in favor of Defendant No.1. Apparently the suit in hand appears to be barred under Limitation Act, 1908 for which Plaintiffs have to satisfy.*
3. *Plaintiffs are seeking declaration in respect of Indenture of Sub Lease Registered No.3547 dated 03-12-2018 voluntarily executed in favor of Defendant No.1 for which Plaintiffs have to satisfy about their own legal character within the meaning of Section 42 of Specific Relief Act.*
4. *Plaintiffs to state how the instant suit is maintainable for on the same subject property, the Plaintiff No.4 has also filed **Suit 586/2024** pending adjudication before **XI Senior Civil Judge Karachi South (pages 79 to 89)**, Defendant No.1 so **being party** as such the suit in hand strike within the provision of Order 2 CPC for which Plaintiffs have to satisfy.*
5. ***Prima facie** the suit in hand is out of pecuniary jurisdiction of this Court for which Plaintiffs have to satisfy how the suit is maintainable within the meaning of Order 7 Rule 10 CPC.*
7. *The suit valuation is apparently not appropriate and claiming of damages is not substantiated for not specifying the quantum of damages in the contents of plaint on each score separately, as general damages cannot be relied upon. The damages suffered and quantity of the amount claimed under each head is to be mentioned by the Plaintiff and the damages should be claimed in a justified proportion of the principle relief and an arbitrary discretion in adjudging the claim of damages cannot be approved to which the Plaintiff has to satisfy the Court.*
8. *Complete address of Plaintiffs No.1 to 3 to be mentioned in the title of the suit.*
9. *Power of Attorney's to be seen and returned.*

On 06.08.2024 the matter was first listed for hearing and upon being confronted counsel sought time to address office objections. Even though this matter falls within the roster definition of this Bench, it appears that it was somehow fixed before another learned Bench on 04.09.2024. On the said date, the following order was passed :

“Maintainability of this Suit is to be argued first, because Plaintiffs themselves are executants of the Sub-Lease sought to be cancelled, which is of 2018 and in the terms of Article 91 of the Limitation Act, three years’ time is provided.

To be listed on 16.09.2024”

Matter came up before this Bench today and learned counsel was again confronted with respect to the issue of maintainability. It was his contention that since notice had already been issued on 16.09.2024, subject to maintainability, by another learned Bench, therefore, the issue stood addressed and matter be proceeded with on merits. Respectfully the said contention could not be articulated to be in consonance with the law.

Office objection 1, 2, 3 4 and 7 raised issue which could result in the plaint being rejected per Order VII Rule 11 (a) and (d) CPC. While the learned counsel did not endeavor to satisfy the court on such count, it is considered appropriate to eschew this deliberation presently as office objection 5 suggests that the plaint is to be returned per Order VII Rule 10 CPC.

Office has raised an objection as to pecuniary jurisdiction and the plaintiff counsel was queried as to why such objection ought not to be sustained. He categorically admitted that the value of the property, subject matter of the instrument in respect whereof remedy is sought herein, is Rs.3.7 Million. Learned counsel remained unable to articulate any cogent justification as to why the suit valued at Rs.3.7 Million could be represented to fall within the confines of the pecuniary jurisdiction of this Court.

In view hereof the office objection 5 is hereby sustained and the plaint is returned to the plaintiff per Order VII Rule 10 CPC. Insofar as other objections as to maintainability are concerned, the same may be addressed by the plaintiff before the court of competent jurisdiction.

Judge