

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

C.P. NO.D-2529/2013

**PRESENT: MR. JUSTICE NADEEM AKHTAR, &  
MR. JUSTICE MUHAMMAD IQBAL KALHORO,**

Petitioner : Muhammad Aslam Shaikh,  
In person.

Respondents : Province of Sindh and others,  
through Ms. Bushra Rizwan advocate for  
respondent No.5.  
Mr. Abdul Jalil Zubedi, AAG.

Date of hearing : 15.01.2015.

**ORDER**

**MUHAMMAD IQBAL KALHORO, J:** The petitioner has invoked the constitutional jurisdiction of this court for seeking following relief(s):

- A. Direct the respondent NO.5 to accept a sum of Rs.144,000/- demanded by them from the petitioner vide letter dated 30.09.2004 and execute sub-lease in respect of plot No.36 Commercial, Sector No.9-A/3, M.S. No.184, measuring 266 sq. yards.
- B. Restrain and prohibit the respondent No.5 from transferring, alienating in respect of Plot No.36 Commercial, Sector No.9-A/3, M.S. No.184, measuring 266 sq. yards.
- C. Any other relief/reliefs as this Hon'ble Court may deem fit and proper."

Concisely the relevant facts are that the petitioner is a practicing lawyer. He had become member of Meerut Cooperative Housing Society/respondent No.5 since its start. The Society acquired land in KDA Scheme No.33 for its members and he as a member paid an amount for the land. The respondent No. 5 issued him a letter dated 30.09.2004 demanding a sum of Rs. 144,000/- towards development charges of the plot bearing No. 36 Commercial, Sector No. 9-A/3, M.S. No. 184, measuring 266 sq. yards, which

belonged to him. The petitioner however, due to an inquiry in respect of irregularities pending against the cooperative housing societies including the respondent No.5 did not pay the demanded amount. The petitioner afterwards approached the respondent No.5 and showed his willingness to deposit the requisite amount towards his plot. He requested unsuccessfully for execution of sub-lease of the plot in his favour, hence filed the instant petition.

3. The respondent No.5 filed the objections denying the claim of the petitioner and terming the letter dated 30.09.2004 as forged and fabricated. In the objections it was also disclosed that the petitioner was leased out a plot No. C-128 Sector 9-A/3 M. S No. 184 which he had sold out to one Iftikhar Ahmed, thereafter he did not remain member of the society any more.

4. The petitioner mainly reiterates the facts of his petition in support of his case and relies upon the letter referred herein above.

5. Ms. Bushra Rizwan counsel for the respondent No. 5 refutes the claim of the petitioner and states in her arguments that referred letter is a bogus and forged document. She also contends that the points raised by the petitioner are concerning the hard facts as the very membership of the petitioner has been denied, the same cannot be adjudicated upon by this Court in the writ jurisdiction.

6. We have heard the petitioner in person and gone through the material placed on record. The petitioner has based his entire claim on the letter stated above allegedly issued by the respondent No.5 to him whereby a sum of the money has been demanded from him for fresh allotment of the plot. A bare perusal of the letter shows that it

does not bear any number of a so-called commercial plot which has been claimed by the petitioner was promised to be allotted to him against the payment of Rs.144,000/-. The said letter also does not disclose the exact area of the plot or whether it relates to any commercial or residential plot being considered for the petitioner. It simply shows a demand of a certain amount as a condition for fresh allotment of the plot. The vagueness in respect of reference to the number of plot or its area in the said letter has certainly cast some cloud over the credibility of the said letter. We however while sitting in the Constitutional jurisdiction will not declare the said letter to be either genuine one or not as it requires the evidence from both the sides. The respondent No.5 in the objection has termed the said letter to be a forged and fabricated document, which has been so emphasized by its counsel in her arguments who has also raised some points, which relate to examination of the facts. Therefore, no authoritative judgment could be given regarding the reliefs claimed by the petitioner in the instant petition unless a thorough enquiry into the alleged facts is carried out. Admittedly, this Court in writ jurisdiction cannot resolve the factual controversies requiring evidence, which is sole prerogative of the Civil Court.

7. Under the circumstances, the instant petition is dismissed with no order as to cost. Before parting with this order, we however must observe that the petitioner would be at liberty to seek his remedy from the proper Court, if so advised.

**J U D G E**

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