

ORDER SHEET
IN THE HIGH COURT OF SINDH AT
KARACHI

CP NO.D-4191/2012

Date	Order with signature of Judge
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- 1. For order on Nazir Report dt. 15.11.14.**
- 2. For order on Nazir Report dt. 03.9.2014.**
- 3. For katcha peshi.**
- 4. For Hg. of CMA NO.42331/12 (U/S 151)**

23.02.2015. Syed Abdul Waheed, advocate for the petitioner.
Mr.Abdul Sadiq Tanoli, Standing Counsel.

1&2) The Nazir's reports are taken on record.

3&4) Learned counsel for the petitioner has stated that petitioner is absolute and lawful owner of plot/land survey No. 61 situated in Deh Drigh Tapo Malir, Karachi admeasuring 16000 square yards leased out in its favour by respondent No.3/ Rafah-e-Aam Corporation Housing Society. He further states that Respondents are trying to take away the said plot from the petitioner unlawfully by erecting a wall around it and for that purpose a notice for tender has been invited in daily Jang dated 4.11.2012. He also states that he does not want to press any other prayers excepting prayer (b) which is in respect of declaration that inviting Tender from Authorized Contractor for erecting wall around the petitioner's leased plot/land is illegal and unlawful. Explaining the same, he states that after filing of this petition, the respondent No.3 has filed a Civil Suit No.135/2013 before this Court on its original side against the petitioner for cancellation of Lease Deed and Transfer Deed in respect of the said plot duly registered in favour of the petitioner, which he wishes to actively contest on remaining prayers. He further contends that since the Civil Suit wherein the issue regarding cancellation of above two documents is *subjudice* before the leaned Single Judge of this Court, the impugned notice for tender to construct the wall over the petitioner's

plot by respondent No. 2/ Executive Engineer Central Civil Division – VI, PWD Karachi, is illegal and not sustainable under the law.

2. On the contrary, learned State Counsel, though has opposed the contentions of the learned counsel for the petitioner, but is not able to deny that the aforementioned Civil Suit filed by respondent No.3 against the petitioner is pending wherein still the question of cancelling the Lease Deed in respect of the subject plot registered in favour of the petitioner has not been decided. The respondents in their parawise comments have not denied the execution of a registered lease deed of the subject plot in favour of the petitioner either. Under the circumstances and keeping in view the pendency of civil suit between the parties, we direct the respondentNo.2 / Executive Engineer Central Civil Division – VI, PWD Karachi not to act upon the impugned notice for Tender in respect of item at serial No.10 concerning the plot of the petitioner till the decision of the above-mentioned suit. In above terms, the petition and listed application are disposed of with no order as to costs.

JUDGE

JUDGE