**IN THE COURT OF 3rd SENIOR CIVIL JUDGE MALIR AT KARACHI.**

Suit No. 250 of 2022

Old suit no 905 of 2014

1. Mrs. Razia Sultana,

Widow of Syed Hashim Abbas,

Muslim, adult,

R/c House No.A-845, Block-12,

F.B.Area, Karachi……………………………………..Plaintiff

1. Syed Anwar Abbas son of Syed Hashim Abbas (late),

Muslim, Adult, NIC No.42101-9922122-5,

Resident of Villa No.634, Street 8,

Precinct 31, Bahria Town, Main M-9 motorway Karachi.

1. Mah-e-Nau daughter of Syed Hashim Abbas (late),
2. Muslim, Adult, NIC No.. 42501-1475384-4,

Resident of A-80, Malir City 15, Malir Colony, Karachi.

1. Syed Jaffar Abbas son of Syed Hashim Abbas (late),

Muslim, Adult, NIC No.42501-5854074-,

Resident of Villa # 220, Street-03, Precinct-31,

Bahria Town, Karachi.

1. Mahrukh Hasan daughter of Syed Hashim Abbas (late)

Muslim, Adult, NIC No.42101-0730668-4,

Resident of R-285, Gulshan-e-Waseem, Buffer Zone, Karachi.

1. Syed Munawwar Abbas son of Syed Hashim Abbas (late),
2. Muslim, Adult, NIC No.35202-2597159-5,

Resident of Villa # 2505, Precinct-27, Bahria Town, Karachi.

1. Zahra Jabeen daughter of Syed Hashim Abbas (late)
2. Muslim, Adult, NIC No.42101-1557510-0,

Resident of A-6, Block-12, Federal B. Area, Karachi.

1. Syed Aijaz Abbas son of Syed Hashim Abbas (late),

Muslim, Adult, NIC No.42101-9953885-9,

Resident of Flat # 1503, 15th Floor, Tower-01,

Noman Residencia, KDA Scheme-33, Karachi ……………………………………..Plaintiff

**Versus**

1. M/s. Humair Associates,

through its Manager

having office at 10th Floor,

Kashif Centre, Shara-e-Faisal, Karachi.

1. The Chief Controller Building,

Karachi Building Control Authority,

Civic Centre, Karachi.

1. The Administrator,

Karachi Metropolitan Corporation (K.M.C)

Civic Centre, Karachi..... …………………………………….Plaintiff

Defendants

**SUIT FOR SPECIFIC PERFORMANCE,**

**DECLARATION, INJUNCTION AND POSSESSION.**

That the plaintiff above named begs to submit as under:

1. That the plaintiff is a widow of Syed Hashim Abbas who was passed away on 08.02.2013 and allottee of plot No.101, Block-C. admeasuring 400 sq.yds situated in the scheme known as 'Gulshan-e- Roomi' near Gulistan-e-Jauhar by virtue of allotment order vide No.101-C/1557 dated 15.12.1982. Photo copy of death certificate and allotment order dated 05.12.1982 are filed herewith and marked as annexure 'P and P-1'.
2. That the said plot was originally allotted to one Abdul Ghani vide allotment order No.101-C/1248 dated 06.01.1979, thereafter the said plot was transferred to one Muhammad Habibullah S/o Abdullah bearing transfer order No.GR/101-C/3583 dated 28.02.1979 and lastly the said Muhammad Habibullah sold out said plot to plaintiff's deceased husband Syed Hashim Abbas by virtue of deed of declaration and surrender of right dated 13.12.1981 on total sale consideration Rs.36,000/- out of which Rs.26.400/- had been paid at the time of execution deed of declaration and surrender of rights while an amount of Rs.9,600/- had been paid to defendant No.1. i. account of balance installment as per the schedule of payment dated 06.01.1979 and finally the allotment order were issued in the name of deceased husband of the plaintiff dated 05.12.1982. Photo copies of letter of acceptance of terms and conditions 06.01.1979, transfer letter of Abdul Ghani dated 28.02.1979, transfer letter dated 06.04.1982 of Syed Hashim Abbas deed of declaration and surrender of rights dated 13.12.1981, terms and conditions are filed herewith and marked as annexure P-2 to P-6' respectively.
3. That the plaintiff hold the possession of entire payment receipt issued by defndant No.1 initially the payment was made by the previous owner and lateron the balance amount of the outstanding price was paid by deceased husband of the plaintiff (Syed Hashim Abbas). Copy of the payment schedule alongwith the all payment receipts issued by the defendant No.1 are filed herewith and marked as annexure ’P-7 to P-30’.
4. That the deceased h..sband of the plaintiff after payment of total price of the said plot received letters from the defendant No.1 dated 22.11.1983 and 10.03.1984 regarding registration of lease deed the husband of the plaintiff approached to the office of defendant No.1 he was told by the Manager that we would informed you lateron, that how much amount you need to pay and finally on demand of defendant No.1 the amount of lease charges amounting to Rs.5,500/- deposited vide receipt dated 01.04.1984. Photo copy of the demand notices for the registration of lease dated 22.11.1983 to 10.03.1984 and the receipt of an amount of receipt Rs.5,500/- dated 01.04.1984 are filed herewith and marked as annexure 'P-31 TO p-33'.
5. That the deceased husband of the plaintiff visited several times to the office of defendant No.1 for the registration of lease deed but one pretext or the other the defendant No.1 make false execuses and failed to registered lease deed in favour of the deceased husband of the plaintiff.
6. That thereafter the office of defendant No.1 remain closed for a long time without any intimation to the allottees and on 11.11.1989 after remarkable delay from the date of payment of lease charges, the deceased husband of the plaintiff received letter from defendant No.1 regarding change of address. Photo copy of the notice of change in address are filed herewith and marked as annexure 'P-34'.
7. That the deceased husband of the plaintiff change his residential address in the year of 1990 and sent a letter regarding change of address to the defendant No.1 and thereafter awaited for a long time as the defendant No.1 verbally told to the husband of the plaintiff that when ever the lease process start he would be informed by the defendant No.1. Photo copy of the letter of change of address dated 10.03.1990 are filed herewith and marked as annexure 'P-35'.
8. That the plaintiff's husband because of his old age had become ill and suffered a long time but no letter regarding the registration of lease of the subject plot was ever received to the plaintiff deceased husband and finally on 08.02.2013 the deceased husband of the plaintiff was passed away thereafter the plaintiff being the widow and one of the legal heirs of her deceased husband sent a legal notice dated 02.06.2014 to the defendant No.1 for transfer of the said plot in to the name of plaintiff the said letter was duly received by the defendant No.1 and respond the same vide his letter reference No.HA/GR/101C/14 dated 19.06.2014 and informed the plaintiff that the said plot has been cancelled on 13.07.2009. Photo copy of the legal notice dated 02.06.2014 alongwith his T.C.S receipts, reply to the defendant No.1 dated 19.06.2014 are filed herewith and marked as annexure P-36 TO p-38'.
9. That the plaintiff has sent a legal notice for restoration of the said plot dated 05.07.2014 and challenge the alleged cancellation without any notice to the deceased husband of the plaintiff the defendant No.1 replied the said notice on 24.07.2014 and straight away refused to restore / transfer the said plot into the name of plaintiff. Photo copy of the legal notice dated 05.07.2014 as well as its reply DATED 24.07.2014 are filed herewith and marked as annexure 'P-39 TO p-40'
10. That the plaintiff has sent a notice Under Section 20-A of Sindh Building Control Ordinance 1979 to the Chief Building Control ( regarding illegal cancellation of the said plot by defendant No.1 without any notice while the deceased husband of the plaintiff expired on 08.02.2013 but no action has yet been taken against the defendant No.1. Photo copy of the notice dated 04.08.2014 is filed herewith and marked as annexure 'P-41 TO p-42'.
11. That the cause of action for the suit firstly arose on 08.02.2013 when the deceased husband of the plaintiff passed away thereafter on 02.06.2014 when the legal notice for transfer of the said plot was sent to the defendant No.1 and thereafter on 19.06.2014 when the cancellation letter was received to the plaintiff and thereafter on 05.07.2014 when the legal notice for restoration was sent to the defendant No.1 and finally on 24.07.2014 when the defendant No.1 refused to restore the said plot and offered for refund of the amount paid by deceased husband of the plaintiff (Syed Hashim Abbas) and the same is continue till the filing of the instant suit within the local limits of Police Station Saddan and this Hon'ble Court has territorial jurisdiction to entertain the instant suit.
12. That the for the purpose of valuation and jurisdiction the suit for specific performance is valued at Rs.1,00,000/- for declaration Rs.1,00,000/- for possession Rs.1,00,000/- and for injunction Rs.20,000/- and the maximum Court fees has been paid by the plaintiff,

**PRAYER.**

The plaintiff above named prays as follows:

1. For specific performance of contract (agreed terms and conditions);
2. To declare that the cancellation of plot No.101-C, admeasuring 400 sq.yds (corner) situated in Gulshan-e-Roomi order dated 19.06.2014 is null and void and against agreed terms and conditions of the contrac and direct the defendant No.2 to take action against the defendant No.1;
3. To direct the defendant No.1 for handing over the physical possession of the said plot to the plaintiff being one of the legal heirs of deceased allottee;
4. To direct the defendant No.3 to get registered the lease deed in favour of plaintiff;
5. The permanent injunction against the defendant No.1 restraining not to transfer the said plot to any body else except plaintiff and create any third party interest to pass judgment and decree in favour of plaintiff directing the defendant No.1 to restore the said plot in favour of the plaintiff;
6. Any other and further relief which may deem fit and proper under the circumstances of the case may also be awarded to the plaintiff.

Karachi.

Dated:

PLAINTIFF

Advocate for Plaintiff

**VERIFICATION.**

I, Mrs. Razia Sultana widow of Syed Hashim Abbas, Muslim, adult, resident of House No.A-845, Block-12, Federal 'B' Area, Karachi, do hereby state on Oath that what ever stated in paras above are correct to the best of my knowledge on information received which I verily believe to be true.

Deponent.

The deponent above named is identified by me.

Advocate

Solemnly affirmed on Oath before me at Karachi this day of Sep August 2014, by the deponent above named who is identified by Mr. Muhammad Junaid Aziz, Advocate, who is personally known to me.

Commissioner for king affidavit.

The contents of this affidavit were first truly and audibly read over and explained to the deponent in Urdu, she does not know properly English language in which it has been written. She fully and perfectly understood the same and put his signature before me.

Commissioner for taking affidavit.

Documents filed:

Documents relied upon:

**IN THE COURT OF 3rd SENIOR CIVIL JUDGE MALIR AT KARACHI.**

**Suit No. of 2014**

Mrs. Razia Sultana……………………………….. Plaintiff

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M/s Humair Associates and Others........... Defendants

**ADDRESS FOR SERVICE**

**OF THE PLAINTIFF.**

Mrs. Razia Sultana,

Widow of Syed Hashim Abbas,

Muslim, adult,

R/o House No.A-845, Block-12,

F.B.Area, Karachi.

Karachi.

Dated:

PLAINTIFF

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Advocate for Plaintiff

**IN THE COURT OF 3rd SENIOR CIVIL JUDGE MALIR AT KARACHI.**

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**LIST OF LEGAL HEIRS OF THE PLAINTIFF.**

1. Mah-e-Nau. Daughter
2. Syed Anwar Abbas. Son
3. Syed Jaffar Abbas. Son
4. Mahrukh. Daughter
5. Syed Munawwar Abbas. Son
6. Zahra Jabeen. Daughter
7. Syed Aijaz Abbas. Son

All Muslim, adult,

R/o House No.A-845, Block-12,

Federal 'B' Area, Karachi.

In case death of the plaintiff the following person will inform to the Court.

Syed Anwar Abbas

S/o Syed Hashim Abbas

R/o House No.A-845, Block-12,

Federal 'B' Area, Karachi.

Karachi.

Dated: 09.2014

Advocate for Plaintiff

**IN THE COURT OF 3rd SENIOR CIVIL JUDGE MALIR AT KARACHI.**

**Suit No. of 2014**

Mrs. Razia Sultana……………………………….. Plaintiff

Versus

M/s Humair Associates and Others........... Defendants

**APPLICATION UNDER ORDER**

**39 RULE 1 AND 2 C.P.C.**

Upon the facts and grounds stated in the accompanying affidavit this Hon'ble Court may be pleased to pass an order restraining the defendant their servants, administrator, attornys, person under their influences and person working under them from transferring and create any third party interest in consideration of the ground mentioned in the accompanying affidavit in respect of plot No.101-C (Corner) admeasuring 400 sq. yds situated in the scheme known as Gulshan-e- Roomi Karachi.

for.

Ad-interim orders till hearing of this application are also prayer.

The prayer is made for seeking the ends of justice.

Karachi.

Dated:

PLAINTIFF

Advocate for Plaintiff

**IN THE COURT OF 3rd SENIOR CIVIL JUDGE MALIR AT KARACHI.**

**Suit No. of 2014**

Mrs. Razia Sultana……………………………….. Plaintiff

Versus

M/s Humair Associates and Others........... Defendants

**AFFIDAVIT IN SUPPORT OF APPLICATION UNDER ORDER**

**39 RULE 1 AND 2 C.P.C.**

I, Mrs. Razia Sultana widow of Syed Hashim Abbas, Muslim, adult, resident of House No.A-845 Block-12, Federal 'B' Area, Karachi, do hereby state on Oath as under:

1. I state that I am one of the legal heirs and plaintiff in the instant suit as such I know the facts of the case fully.
2. I state that the application Under Order 39 Rule 1 and 2 C.P.C has been drafted under my instructions and the contents whereof alongwith the plaint may be treated as part of this affidavit for the sake of brevity.
3. I state that the deceased Syed Hashim Abbas was the allottee of the suit plot bearing No.101-C, admeasuring 400 sq.yds situated in Gulshan-e-Roomi Karachi and the plaintiff is the widow of the said allottee.
4. I state that the defendant No.1 is trying to create theird party interest by transferring the said plot into the name of any stranger person illegally while my deceased husband has paid the entire price of the said plot as per the payment schedule alongwith all lease charges beside that the defendant No.I has illegally cancelled the said plot with malafide intention to sell the same on huge prices and creat third party interest.
5. I state that I have good prima facie case and the balance of convenience as the said plot has yet not transfer to any body else and there would be a chance for multiciplity of litigation if the said plot would be transfer to any body else instead of plaintiff.
6. I state that until the instant application is granted I shall be seriously prejudiced with heavy losses and damages.
7. I state that what is stated above is true and correct to the best of my knowledge and belief.

Deponent

The deponent above named is identified by me.

Advocate

Solemnly affirmed on Oath before me at Karachi this day of \_\_\_\_\_ 2014, by the deponent above named who is identified by Mr.Muhammad Junaid Aziz, Advocate, who is personally known to

me.

Commissioner for taking affidavit.

The contents of this affidavit were first truly and audibly read over and explained to the deponent in Urdu, she does not know properly English language in which it has been written. She fully and perfectly understood the same and put his signature before me.

Commissioner for taking affidavit.