

**IN THE COURT OF DISTRICT OF DISTRICT JUDGE, EAST
KARACHI**

Civil Suit No. 2 /2017

Mr. XXXXXXXX

Through Attorney

XXXXXXX Muslim,Adult,

S/o Awal Khan Office at F-40/A.2

Main Street #26, Block-4 Clifton,

Karachi.

Plaintiff

Versus

Muhammad Ashraf

C-288 Block-1,

Gulistan E Johar, Scheme 33,

Karachi.

Defendant

**SUIT UNDER SECTION 13 OF DEFAMATION ORDINANCE, 2002 FOR DECLARATION
AND RECOVERY OF RS. 50 MILLIONS (RUPEES FIFTY MILLIONS), AS DAMAGES
FOR DEFAMATION**

The Plaintiff respectfully submits as under:

1. That the addresses of the parties have been correctly supplied in the cause title of the Plaint and are sufficient for the purpose of the service of the process by this court.
2. That this Suit is being filed under Section 13 of Defamation Ordinance, 2002 (as amended) before the District Judge being the Special Tribunal for the purpose of adjudication cause of actions pertaining to defamation.
3. That the instant suit is being instituted against the Defendant on behalf of the Plaintiff by his Attorney namely Mr. XXXXXXXX Son of Mr. Awal Khan, who is duly recognized attorney of the Plaintiff (within the scope and meaning of the Order 3 of CPC 1908). The said Attorney is competent to represent, apply and act for the Plaintiff and to do all acts necessary or incidental thereto, for proper prosecution of the case.

(Original Power of Attorney is attached as Annexure "A")

4. That the Plaintiff is an accomplished Estate Agent carrying on business with the name of Ali Saqlain Real Estate Builders, which Estate Business has offices in all major cities of the country. Being its Owner/Proprietor he commands a great respect, high esteem, recognition and acknowledgement. Such position the Plaintiff has achieved through his vigorous struggle and by upholding the trust his clients have rendered upon him. In bringing about the sale and purchase of immovable properties on commission basis he enjoys a very extensive goodwill and reputation, in resident and non-resident citizens of Pakistan; in business circles and also in business community.

5. That the Defendant was Plaintiff's client, purchasing different immovable properties from the already purchased immovable prosperities by the Plaintiff and also the Defendant used to take Plaintiff's services to negotiate deals on commission basis.

6. That the Plaintiff has always been extending a full disclosure of the deals that were executed between them and also no misrepresentation was made to the Defendant by the Plaintiff in such transactions/deals/agreements. The Defendant is engaged in buying and selling immovable properties -from last many years- for the investment purposes and speculates in the real estate's future market, thus he is well accustomed with the rules, conventions and practices of the Real Estate market. It is therefore, remotely possible to misinform or misrepresent or any fact can be suppressed from the Defendant.

7. That it is regretfully stated that after two years of the Agreement/purchase of immovable property in question from the Plaintiff, the Defendant filed purported Complaint with M/S Bahria Town, Karachi on 30-11-2016, without supporting it with any substantial or circumstantial evidence. Or the Addressee of the said purported Complaint was a right forum under the laws or any rules set by the Addressee for the resolution of the dispute-if any- between the Plaintiff and the Defendant. The language used therein is defamatory and libel constructively and contextually. The commission of this act by the

Defendant on 30-11-2016 came into notice of the Plaintiff on 02-01-2017, after the purported Complaint was widely circulated in the market and the Plaintiff's agent/employee confirmed it from the Addressee of the purported Complaint on 04-01-2017. The exact contact of the false representation is produced below:

"Ali Saqlain miss committed, & that 12 days converted into years and after a long hectic wait of 23 months approx, when the project officially announced by BAHRIA TOWN in 2016, and I got my 1st Statement of Accounts on 04-10-2016 by G.M sales Mr. Umer in the presence of C.E.O Ali Saqlain (Mr. XXXXXXXX), I was extremely shocked, because statement is showing PKR. 1,04,75,170/= as "**Amount Paid**". Upon this, G.M Sales BAHRIA TOWN (Mr. Umer) clarify me that whatever amount is received by BAHRIA TOWN against your booking from Ali Saqlain is shown in your Statement of Accounts.

APPEAL :

- 01) Ali Saqlain should be charged with heavy penalty as they miss committed about the launching date of ICON TOWER,

because, if they told true launching date of ICON TOWER in November 2014 to their clients that the ICON TOWER will be launched officially in Mid 2016 by BAHRIA TOWN, Nobody in the whole world is fool enough to make heavy down payment of PKR= 18.9 Million (23 months prior to launching of project).

02) we actually paid PKR 1,89,41,917- PKR 1,04,75,170

(amount paid shown in statement)= PKR 84,66,747 should be refunded to me by Ali Saqlain with interest and penalty (charged by BAHRIA TOWN) for deceiving me (Client of BAHARIA TOWN, through its authorized dealer), as Ali Saqlain never told me that they have any sort of profit/commission/share in my down payment amount and

I paid through Bank Pay Orders in the name of BAHRIA TOWN, which is an undeniable proof that I was informed to pay to BAHRIA TOWN directly not to Ali Saqlain. If, Ali Saqlain, wants to take my profit/commission from BAHRIA TOWN, that should be between Ali Saqlain (Dealer) & BAHRIA TOWN JUST LIKE golf city & all other previous

articles, which we also bought Ali Saqlain, but in all that previous deals Ali Saqlain took its profits openly by informing us before the deal & the down payment through pay orders in the name of BAHRIA TOWN are completely shown in the statements issued by BAHRIA TOWN later on.

03) If Ali Saqlain refuses to refund our amount of PKR

84,66,747/= then we request the higher Management of BAHRIA TOWN to cancel the dealership of Ali Saqlain to save the general public/Clients from this sort of fraud & also Request BAHRIA TOWN to refund my payment from the security deposit of Ali Saqlain.

(THE COPY OF THE PURPORTED COMPLAINT IS ANNEXTURE “B”)

8. That above reproduced allegation is completely untrue and unfounded.

The Defendant was having a complete disclosure that this is not a deal on commission basis but it is our invested/purchased area ICON TOWER

the Plaintiff it to Defendant on prevalent market rate. No commission being taken from the Defendant. The Defendant's averment in the purported complaint per se is self explanatory that it was not the deal on commission basis. Which practice is conventional in the Real Estate Business. Besides, inter alia, pay orders taken by the Plaintiff on different titles is also as per conventions/practices of the Real Estate market. And the rate, on which the said area was sold per square foot in the mentioned period, was sold on market rate prevalent at that time. Which fact can easily be confirmed-even today-from the Market.

9. That during the course of time since the purchase of the Property in question was executed between the Plaintiff and the Defendant; value of Real Estate went down due to sudden rise in the tax slabs on different categories and locations of the immovable properties by the FBR and due to other negative trends.

10. That present market rate of the property in question is even far below the rate it was actually purchased by the Defendant. However soon after its purchase, the prices of the said property went high also. Such,

practices, norms and risks are inherently implied in the Real Estate business.

(Copies of the first installment's receipt, Booking Application Form and Statement of Account Annexure C & C2)

11. That the purported complaint was communicated to third person and from third person it went in the chain of communication to all the business circles the Plaintiff is associated with. It also came in notice of the friends, employees of the Plaintiff and finally to all business community.

12. That before the purported Complaint was lodged, the Defendant on 09-06-2016, through the text messages sent threatening/ abusive/ blackmailing messages to the employee Mr. Abdul Khaliq. Such conduct of the Defendant created fear in the employees of the client creating an injury to the business and social standing of the Plaintiff. The text messaged are reproduced below:

- a. “ Aaj Kis tym ayengay?” time 4:17 PM
- b. “?” 4:39 PM
- c. “??” 5:13 PM
- d. “Baray he Khandani madarchod ho tum” 7:54 PM
- e. “ Randi Ki nasal say” 7:54 PM
- f. Randi Say bhi bad tar

Randi Bhi Sirf jism bechti hay, Dhoka Nahi Deti” 7:55”PM

- g. “ Baray he khandani madarchod ho tum

Randi Ki nasal say

Randi say bhi bad tar

Randi bhi sirf jism bhaichti hai

Dhoka nahin Deti”

(Copy of the SMS text is Annexure D & D1)

13. That the employee of the Plaintiff, as mentioned in para 12 above,
lodged a complaint with SHO Boat Basin Police Station, District South
Karachi, on 8/12/16 to take further lawful action against the Defendant.
The cellular phone number used for threatening and defamatory calls is

same which number has also been mentioned by the Defendant in the Purported Complaint – i.e. annexure B- as his number.

(Copy of the Complaint Lodged with SHO Annexure E)

14. The Defendant had a motive to cause harm to the Plaintiff, so that his later clients may not have any business through his agency.

15. That by communication, to third person of the purported Complaint the Plaintiff has suffered in his reputation and his goodwill and people have started looking down upon the Plaintiff, whereby the Plaintiff has suffered extensive loss in his business, and also suffered from mental pains. The purported Complaint was lodged without any just cause, and without due diligence.

16. The Plaintiff

17. That the Plaintiff is entitled to recover from the Defendant

Rs. 50 Millions as damages as per details given below:

For loss of reputation Rs. 25 Millions

For loss of Business Rs. 25 Millions

Total Rs. 50 Millions

18. That Plaintiff made a demand of damages on account of the defamatory statement made by the Defendant, and on account of the reputation and the pain caused to the Plaintiff, by the aforementioned Purported Complaint communicated by the Defendant to the BAHRIA TOWN Karachi and threatening text messages to the aforementioned employee (Attorney of the Plaintiff), is claiming Rs 50 Millions.

19. That the Plaintiff Is entitled to recover Rs. 50 Millions (Rupees Fifty Millions) and damages as detailed above.

20. That the cause of action arose in favor of the Plaintiff and against the Defendant on 30.11.2016 (the date on which complaint was communicated Baharia Town) The cause of action continued against the Defendant when the Defendant did not abstain from his wrong doing

despite the Legal Notice was received on 3-02-2017. The cause of action against the Defendant is within the jurisdiction of this Court and this Court has got jurisdiction to hear the Suit.

(Copies of the courier services and registered post is G & G1)

21. The valuation of the Suit for the purpose of Jurisdiction and court-fees is Rs. 50 Millions (Rupees fifty Millions) and the court-fee has been paid accordingly.

22. That for the purpose of pecuniary jurisdiction and court fee this suit is valued for Rs. 50,000,000/- (Rupees Fifteen Million only), wherein the maximum Court Fee of Rs. 15000/- (Rupees Fifteen Thousand Only) is being fixed with this Plaint.

PRAYER

It is respectfully prayed that this Hon'ble Court may graciously be pleased and pronounce as under:

- a. Declare and hold that the defamatory purported Complaint in writing and the text messages, innuendo and insinuation, attributed to the person of the Plaintiff by the Defendant are acts of defamation and libel.
- b. Direct the Defendant to tender an apology within the scope of section 9 of 'Defamation Ordinance, 2002' as acceptable to the Plaintiff and in similar manner send a apology letter to the addressee of the purported Complaint and communicate through Notice to General Public in some well circulated Newspaper and periodicals of the Estate Developer Business.
- c. Pass a Judgment and Decree the Suit in favor of the Plaintiff and against the Defendant for the payment of Rs. 50 Millions (Rupees Fifty Millions Only) for the loss of reputation and goodwill of the Plaintiff.
- d. Cost of the Suit may graciously be awarded to the Plaintiff.
- e. Grant any other consequential relief or better relief(s) and this Hon'ble Court may deem fit and proper.

PLAINTIFF THROUGH HIS ATTORNEY

ADVOCATE FOR THE PLAINTIFF

VERIFICATION

I, XXXXXXX S/o Awal Khan, Muslim, Adult, Holding NIC No. 17101-8960963-9, Resident of House No. Quaid Villa 535, Super Highway, BAHRIA TOWN, Karachi, do hereby solemnly verify on oath that whatsoever is stated in the above paragraphs is true to the best of my knowledge and belief and information.

DEPONENT

Identified by me

ADVOCATE

Solemnly affirmed before me at Karachi on this ____day of Febauary, 2017, by the deponent above-named, who is identified to me by Miss. Sadaf Gul, Advocate who is personally known to me.

COMMISSIONER FOR TAKING AFFIDAVITS

Documents filed : Annexures "A" to " G1"

Documents relied upon : All relevant documents

Address of Plaintiff : As per title

Address of Plaintiff's counsel : MR JAVED AHMED QAZI

ADVOCATE
SUITE NO. 403,
AL-FATIMA CHAMBERS
NEAR, PASSPORT OFFICE
SADDAR, KARACHI.

KARACHI.

DATED: 21 -02-2017

ADVOCATE FOR THE PLAINTIFF

**IN THE COURT OF DISTRICT OF DISTRICT JUDGE, EAST
KARACHI**

Civil Suit No. /2017

Mr. XXXXXXXX

Plaintiff

Versus

Muhammad Ashraf

Defendant

EXEMPTION APPLICATION

It is respectfully prayed on behalf of the Plaintiff above named that this Honorable Court may graciously be pleased to exempt the Plaintiff from filing the certified copies / originals of the documents and accept the Photostat copies in the meanwhile.

Prayer is made in the interest of justice.

KARACHI:

ADVOCATE OF THE PLAINTIFF

21-02-2017

For immediate use in Court
On behalf of the Plaintiffs

**IN THE COURT OF DISTRICT OF DISTRICT JUDGE, EAST
KARACHI**

Civil Suit No. /2017

Mr. XXXXXXXX

Plaintiff

Versus

Muhammad Ashraf

Defendant

AFFIDAVIT

I, XXXX son of, Awal Khan, holding CNIC no. 17101-8960963-9, Muslim, adult, Resident of Quaid Villa 535 , Super Highway, Khayaban e Bahria, Karachi , do hereby solemnly affirm on oath as under: -

1. That I am the constituted attorney of the Plaintiff, who is my wife, in the captioned matter, hence am well conversant with the facts of the case and able to depose to the same.
2. That the accompanying application for exemption is drafted under my specific instructions and contents of the same may kindly be treated as integral part of this affidavit for the sake of brevity and to avoid repetition.

3. That the Plaintiff does not possess the original or certified copies of the documents and shall file the same as soon as I am or she is able to obtain the same.

4. That unless the accompanying application for exemption is allowed, Plaintiff shall suffer irreparable loss and serious injuries shall be inflicted to him.

5. Whatever is stated above is true and correct to the best of my knowledge and belief and information and advice received which I verily believe to be true.

DEPONENT

Identified by me.

ADVOCATE'S COURT CLERK

Solemnly affirmed before me at Karachi on this ____day of Feb, 2017, by the deponent above-named, who is identified to me by Miss Sadaf Gul, Advocate in Office of Advocate Javed Ahmed Qazi Karachi, who is personally known to me.

COMMISSIONER FOR TAKING AFFIDAVITS

**IN THE COURT OF DISTRICT OF DISTRICT JUDGE, EAST
KARACHI**

Civil Suit No. /2017

Mr. XXXXXXXX

Plaintiff

Versus

Muhammad Ashraf

Defendant

ADDRESS OF PLAINTIFF'S COUNSEL FOR SERVICE

MR JAVED AHMED QAZI

ADVOCATE

SUITE NO. 403,

AL-FATIMA CHAMBERS

NEAR, PASSPORT OFFICE

SADDAR, KARACHI.

Cell Phone No. 92 300 8220365

Karachi

Dated: 21-02-2017

ADVOCATE FOR THE PLAINTIFF

**IN THE COURT OF DISTRICT OF DISTRICT JUDGE, EAST
KARACHI**

Civil Suit No. /2017

Mr. XXXXXXXX

Plaintiff

Versus

Muhammad Ashraf

Defendant

**LIST OF LEGAL HEIRS ON BEHALF
OF THE PLAINTIFF**

<u>Sr.No.</u>	<u>Names</u>	<u>Relationship with Plaintiff</u>
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1. Mrs. Marium Shahid
2. Ms. Mehr un Nissa D/O Mr. XXXXXXXX

God forbid in case of death of Plaintiff, the legal heir named at Sr.No.1 above will inform this Honorable Court and proceed with the matter.

Karachi

Dated: 21-02-2017

ADVOCATE FOR THE PLAINTIFF

IN THE COURT OF DISTRICT OF DISTRICT JUDGE, EAST KARACHI

Civil Suit No. /2017

Mr. XXXXXXX PETITIONER

VERSUS

Muhammad Ashraf.....RESPONDENT

I N D E X

S#	Description	<i>Annexure</i>
1.	Original Copy of Special Power of Attorney	A
2.	Copy of Purported Complaint	B
3.	Copies of Receipts of first installment, Booking Application Form and Statement of Account	C to C2
4.	Copies of the SMS text	D to D1
5.	Copy of the Complaint Lodged with SHO	E
6.	Copies of courier and register post	G to G1

Karachi:

Dated: 21.02.2017

ADVOCATE FOR PETITIONER

**IN THE COURT OF DISTRICT OF DISTRICT JUDGE, EAST
KARACHI**

Civil Suit No. /2017

Mr. XXXXXXXX

Plaintiff

Versus

Muhammad Ashraf

Defendant

ADDRESS OF PLAINTIFF

Mr. XXXXXXXX

Through Attorney

XXXXXXX Muslim,Adult,

S/o Awal Khan Office at F-40/A.2

Main Street #26, Block-4 Clifton,

Karachi.

Karachi

Dated: 21-02-2017

ADVOCATE FOR THE PLAINTIFF