

Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI

IIInd Appeal No. 392 of 2025

[Naseem Akhtar and others v. Sadia Naeem and others]

Date	Order with signature of Judge
Appellant	Through Mr. Abdullah Azzam Naqvi, Advocate
Respondent No.1	In person, who is also Attorney of Respondent No.2
Respondent No.3	In person.
Date of Hearing & Order	26.02.2026.

ARSHAD HUSSAIN KHAN, J.- The Appellants have filed the instant Second Appeal under Section 100 of the Code of Civil Procedure, 1908, being aggrieved and dissatisfied with the impugned judgment dated 13.11.2025 and the impugned appellate decree dated 15.11.2025, passed by the learned VII-Additional District Judge, Karachi [Central], in Civil Appeal No. 150 of 2025. By the said judgment and decree, the learned appellate court dismissed the First Appeal preferred by the Appellants and maintained the preliminary decree dated 24.05.2025, and the Initial Order dated 23.05.2025, passed in Suit No. 1286 of 2025 filed by Respondent No.1. The appellants through the present appeal have prayed as follows:

- a) Set aside the Impugned Judgment dated 13.11.2025 and the Impugned Appellate Decree dated 15.11.2025, and allow the First Appeal;
- b) Consequent to the preceding prayer, set aside the Preliminary Decree dated 24.05.2025 and the Initial Order dated 23.05.2025, and pass such other appropriate orders, including dismissal of Respondent No.1's application under Order XX Rule 13, CPC;
- c) Alternatively, in the event prayer clauses (a) and (b) are not allowed, set aside the Impugned Judgment and Decree and remand the matter back to the learned Appellate Court for fresh hearing of the First Appeal;
- d) Grant costs of the instant appeal; and
- e) Pass such further or other relief as this Hon'ble Court deems just and proper in the circumstances of the case.

2. This Second Appeal arises out of Civil Suit No.1286 of 2025 concerning administration and partition of the estate of deceased Naeem Nazeer. The trial court passed a preliminary decree under Order XX Rule 13 CPC for undisputed immovable properties, movable assets, and bank accounts, appointing the Nazir/COC to verify documents and audit accounts. The appellate court confirmed the decree, holding that ownership of admitted properties is undisputed and the preliminary decree is maintainable, even if other issues or collateral litigation remain pending. The appellants challenged the decree claiming pendency of collateral suits affects distribution, which was rejected by the appellate court. Hence, the present appeal.

3. Learned counsel for the appellants contended that the preliminary decree in respect of the undisputed properties was premature. He has argued that the entitlement of certain heirs and the outcome of other pending proceedings could affect the shares, and therefore any distribution at this stage would be unsustainable in law. He has further submitted that the learned trial court failed to consider the pendency of earlier suits and the objections raised by the appellants.

4. Respondents, in person, have contended that the undisputed properties were admitted by all parties and that the preliminary decree was properly passed under Order XX Rule 13, C.P.C. They submitted that the decree safeguards the rights of all heirs while ensuring that admitted properties are administered without delay and that no further evidence was required for the limited scope of the preliminary decree.

5. Heard learned counsel for the appellant and respondents in person; perused the material available on the record.

Upon perusal of the record, it is evident that the preliminary decree, passed by the learned trial court under Order XX Rule 13, C.P.C., in respect of the undisputed immovable properties along with the movable assets and bank accounts was legal and justified.

6. The settled principle is that in administration suits, a preliminary decree may validly be passed in respect of admitted and undisputed properties without awaiting adjudication of all ancillary or contested

issues. In the present case, there is no dispute regarding the properties mentioned in the Schedule of Properties at Serial Nos. 1 and 4 to 7. Therefore, the preliminary decree to that extent was rightly passed by the learned trial court and subsequently affirmed by the learned appellate court.

7. Since this is a Second Appeal under Section 100, C.P.C., interference is permissible only where a substantial question of law arises. No such substantial question of law has been formulated, nor does any arise from the record; therefore, this Court finds no ground for interference. However, in order to avoid multiplicity of proceedings and in exercise of appellate jurisdiction, limited modification is warranted. The directions in the preliminary decree regarding enquiry in respect of properties at Serial Nos. 2 and 3 were not warranted in the present proceedings, as civil suits concerning these properties are pending before competent courts. Accordingly, the preliminary decree stands modified to the extent that the learned trial court shall proceed further only in respect of properties at Serial Nos. 1, 4 to 7 along with bank accounts/vehicles and shall ensure that the enquiry through the Nazir remains strictly confined to the said properties. Needless to observe that the rights of the parties in respect of properties at Serial Nos. 2 and 3 shall abide by the outcome of the pending suits.

8. In view of the foregoing, instant Second Appeal stands disposed of in the above terms. The preliminary decree shall remain effective and operative subject to the modification hereinabove.

JUDGE