

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

IInd Appeal No. 206 of 2026

Date

Order with signature of Judge

1. For orders on CMA No.5568/2026 (U/A)
2. For orders on office objection
3. For orders on CMA No.5415/2026 (Ex/A)
4. For orders on CMA No.5416/2026 (Court Fee)
5. For hearing of main case
6. For orders on CMA No.5417/2026 (Stay)

18.08.2026

Mr. Muhammad Riaz, Advocate for the Appellant.

1. Urgency granted.
- 2-6. The instant appeal has been filed by the Appellant to challenge Order dated 12.05.2026 passed in Civil Appeal No. 383/2025 by XIth Additional District Judge, Karachi (West).

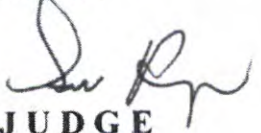
The facts as per the record, briefly stated are that the respondents are mother/siblings of the Appellant. The Respondent No. 1 filed Suit No. 662/2024 against the Appellant and the remaining Respondents for partition of inherited property i.e. House No. 1735/369, Patni Society, Baldia Town, Karachi ("**Suit House**") upon death of their predecessor-in-interest. The learned Trial Court decreed the suit vide the Impugned Judgment dated 21.11.2025 by holding that the Appellant was unable to establish exclusive title to the Suit House nor the ingredients of gift and that she is not entitled to exclusive rights on the ground of possession alone. The Appellant filed appeal before the XIth Additional District Judge, Karachi (West) who dismissed the same vide the Impugned Order dated 12.05.2026 on the ground that the appeal is not accompanied with requisite fees nor was application under Section 149, CPC filed yet the Appellate Court granted several opportunities to the Appellant to make good the deficiency of court fees but neither court fees was deposit till passing of the impugned order nor any plausible explanation rendered.

The learned counsel for the Appellant submits that the Appellant, Naureen Kamal, has filed this IInd Appeal challenging the Order dated 12.05.2026 passed by the XIth Additional District & Sessions Judge, Karachi

(West), which dismissed her Civil Appeal No. 383/2025 on technical grounds of Court fee deficiency and non-compliance in issuance of notice to the Respondents, without deciding it on merits. He further submits that Civil Appeal had been filed against the judgment and decree dated 21.11.2025 passed by the VIIth Senior Civil Judge, Karachi (West) in Civil Suit No. 662/2024 filed by Respondent No.1 for partition of the inherited property at House No. 1735/369, Patni Society, Baldia Town, Karachi. The learned counsel for the Appellant relies upon the case of *Abdul Khaliq vs. Haq Nawaz*, PLD 2018 SC 729 to argue that although Court fee was not be paid, however, the matter should have been decided on merits and not struck off on technicalities.

Heard the learned counsel for the Appellant and perused the record with his able assistance.

The perusal of the said case relied upon however shows that the facts were entirely different including but not limited to the fact that the deficiency was minor and even otherwise in such case Trial Court had not directed the Appellant to make up the deficiency in Court fee, in which case Supreme Court held that it does not warrant dismissal of the suit. On the other hand, in the instant case, it is undisputed and as recorded in the impugned judgment, Appellant was given several chances to deposit the requisite Court fee, despite which the Court fee was not deposited without any plausible explanation¹. Even before this Court, no explanation whatsoever has been given in the memo of appeal as to why the Court fee was not deposited within time nor Court fee been deposited for this appeal and instead an application under Section 149, CPC has been filed. A memo of appeal cannot be treated as properly presented till deposit of court fee². In view of the foregoing, instant IInd Appeal is devoid of merits and same is dismissed *in limine*.


JUDGE

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¹ *Ghulam Rabani through Ghulam Sarwar*, 2008 CLC 1678; *Government of Balochistan Vs Muhammad Ibrahim*, 2000 SCMR 1028

² *Auqaf Department Punjab, Lahore Vs Saeed Ahmad*, 1996 MLD 1074

