

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
H.C.A. No. 251 of 2001

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.
Mr. Justice Abdul Maalik Gaddi.

Syed Kaleem Ahmed Naqvi & others.....Appellants

V E R S U S

Mst. Qaisar Naqvi & others.....Respondents

Date of hearing 26.01.2017

Mr. Saleemuddin Qureshi advocate for the appellants a/w Syed Khalid Naseem Naqvi appellant No. 2(c) and Attorney of other appellants as well as attorney of Respondent No.2.

Mr. Ali Ahmed Tariq advocate for the Respondents a/w Mst. Adeeba Farzana legal heir of Mst. Qaisar Naqvi (Respondent No.1).

Muhammad Ali Mazhar, J: This High Court Appeal has been preferred against the judgment passed by learned Single Judge of this court in suit No.908 of 1985. Initially, SMA No.177 of 1985 was filed for the administration of the estate of late Anwar Ahmed Naqvi son of Aziz Ahmed. However, some objections were raised by the legal heirs, therefore, being a contentious matter, the SMA was converted into suit which was disposed of by the learned Single Judge of this court vide judgment dated 21.02.2001. Being aggrieved by the judgment, this High Court Appeal was originally filed by five legal heirs but during pendency of this High Court Appeal, some of the original appellants had expired and their legal heirs were brought on record. The last of amended title was filed on

16.10.2014. During pendency of this High Court Appeal, the parties have amicably resolved the issue and they have filed an application under Order XXIII Rule 1 & 3 C.P.C. All the appellants are being represented through their Attorney namely Syed Khalid Naseem Naqvi who is also one of the legal heirs. We have also gone through the power of attorneys filed in this case which do show that the attorney has been given power to enter into compromise and file compromise application. The Respondent No.1 Mst. Qaiser Naqvi has expired and left behind two legal heirs i.e. Mst. Zehra Bano and Mst. Adeeba Farzana. During pendency of this appeal, Mst. Zehra Bano has expired while Mst. Adeeba Farzana is present in court with her counsel. So far as Respondent No.2 is concerned, he has also executed power of attorney in favor of Syed Khalid Naseem Naqvi. His power of attorney is also available in the file with the statement dated 08.09.2016. He has also given power to his attorney to enter into compromise and file compromise application. So far as legal heirs of Mst. Zehra Bano are concerned, learned counsel for the Respondent No.1 (b) filed an application under Order XXII Rule 4 r/w Section 151 C.P.C (CMA No.2035 of 2016) which shows the names of legal heirs of Mst. Zehra Bano including Mst. Adeeba Farzana. We have also gone through the compromise application in which certain terms and conditions have been agreed between the parties to resolve the old pending issue. On behalf of appellants, Syed Khalid Naseem Naqvi for self and as

attorney has signed the compromise application while Mst. Adeeba Farzana has also signed the compromise application.

2. Learned counsel for the Mst. Adeeba Farzana submits that Mrs. Khalida Mansoor is in America who is one of the legal heirs of Mst. Zehra Bano whose signature could not be secured but she has no objection to this compromise while remaining legal heirs Mrs. Shabana Shoukat, Mrs. Hina Khalid and Faisal Saif Naqvi of Mst. Zehra Bano have signed this compromise application. Mr. Ali Ahmed Tariq advocate further submits that during life time of Mst. Zehra Bano he was also representing her. Mr. Ali Ahmed Tariq advocate has also identified the signature of Mrs. Shabana Shoukat, Mrs. Hina Khalid and Faisal Saif Naqvi and submits that they signed the compromise application in his presence. He further undertakes to file vakalatnama of these three persons in the office within ten days.

3. Basically, the compromise application refers to only one Bungalow No. B-147, Block-N, North Nazimabad, Karachi and parties have agreed that this plot will be sold out in the best market price by joint efforts of the parties and the sale proceed will be distributed amongst both the parties equally. It is further agreed in clause 8 that the joint bank account will be opened in the name of two persons nominated by each party and the amount will be deposited after completion of transaction. It is further stated in para-10 that for any reason the compromise could not be acted upon, the property shall be

sold out by the Nazir through public auction on best market price.

4. As a result of above discussion, this appeal is disposed of in terms of compromise filed in court. Office is directed to mark CMA number on this application. At the same time, CMA No. 2035 of 2016 is allowed and the legal heirs of Mst. Zehra Bano are impleaded as Respondents. Learned counsel for the appellants is directed to file amended title within ten days. Since Mrs. Khalida Mansoor, Mrs. Shabana Shoukat, Mrs. Hina Khalid and Faisal Saif Naqvi are not present but they have no objection to the compromise, therefore, in order to secure and safeguard their interest, the appellants and remaining Respondents are directed to deposit their respective shares before the Nazir of this court immediately on completion of sale transaction and receiving the sale proceed. The compliance report shall be submitted by the appellants and respondents through a joint statement in respect of deposit of these shares with the Nazir. The report shall be submitted through M.I.T-II of this court.

JUDGE

JUDGE

Aadil Arab