

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**Suit No.706 of 2014**

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Order with signature of Judge(s)

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1. For hearing of CMA No.2240/2018
2. For hearing of CMA No.4285/2018
3. For hearing of CMA No.5687/2014
4. For hearing of CMA No.8943/2014
5. For hearing of CMA No.12106/2014
6. For hearing of CMA No.12365/2014
7. For hearing of CMA No.12366/2014
8. For hearing of CMA No.12367/2014
9. For hearing of CMA No.2662/2016
10. For hearing of CMA No.8149/2016
11. For hearing of CMA No.1197/2016
12. For hearing of CMA No.16278/2017
13. For hearing of CMA No.1823/2018

**07.08.2018**

Mirza Sarfaraz Ahmed, Advocate for the plaintiffs  
Mr. Parvez Ahmed Mastoi, AAG  
Mr. Haider Imam Rizvi, Advocate for Defendant Nos.14 & 15  
Mr. Abid Feroz, Advocate for alleged Contemnor Nos.1 & 2

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1. Heard the counsel at length on this CMA. Through the instant application, the Defendant Nos.14 and 15 have sought rejection of the plaint. The counsel at length went through the plaint as well as prayers made therein and submitted this suit filed in the year 2014 has lost its relevance as prayer (a) to (f) have become infructuous, as it was filed by the plaintiffs who were elected through election process conducted in the year 2013 and while they were enjoying their tenure vide order dated 04.09.2014 an administrator was appointed and being aggrieved by the said act, instant suit was filed, but in the last three years elections have taken place and new representatives were entered, who however have not been permitted to perform their job on account of *status quo* and allied prohibitory orders passed from time to time.

Per counsel, on the first date of its presentation vide order dated 30.04.2014 ad-interim orders were granted as prayed which vide order dated 20.05.2016 were extended to the extent that the defendants and other authorities were restrained from auctioning of the subject property in any

manner. Also of relevance is the order dated 16.01.2017, when Defendant No.2 was directed to submit comprehensive report with regard to the election held in the years 2016 and 2017. Court was also moved by urgent motion on 25.11.2017, where election schedule in November, 2017 was called in question and injunctive relief was sought from this Court, where my learned brother vide order dated 25.11.2017 did not pass restraining orders against holding of elections with a view that it was in the interest of Society that genuine members be elected. The exercise was thus permitted, however the Society was restrained from announcing the results. To ensure impartiality and transparency of the process, my learned brother ordered the Defendant No.2 to produce the record of the election proceedings for the consideration of this Court to examine that whether the elections were held in adherence with the bye-laws or not. Defendant No.2 furnished his independent report alongwith list of original members of the Society. Per counsel, the elections were held in transparent manner new representatives were brought forward vide compliance report dated 18.12.2017 attached between pages 1239 to 1243.

As to merits, per counsel, not only that the suit is not maintainable as being violative of Sections 54, 70 and 70-A of the Cooperative Housing Society Act, 1925 as well as it is causing great injustice to the members of the Society who were restrained from occupying their respective plots and it is only the high headedness of the present plaintiffs, who from the year 2014 for one reason or the other are not letting new representatives takeover their positions thus hindering developmental work.

These assertions were challenged by the counsel for the plaintiffs, who in particular referred to another report reproduced at Page 283 (a photocopy only), which allegedly is also presented on behalf of Defendant No.2 in compliance of this Court's order dated 25.11.2017, however, the said Defendant in the conclusive part of that report has refused to take any responsibility of the results of the elections conducted by the existing management. Per counsel, the true

picture is that the plaintiffs are legit members of the society and the defendants by expending membership illegally have engineered a body which is not true representative of the members of the Society.

In the wake of these two contradictory reports filed on the same date i.e. 18.12.2017 by the same defendant, learned Assistant Advocate General was called, who as per record, while supported the report reproduced at Page 1239, however, also did not deny the report reproduced at page 283 by stating that he has no knowledge of the said report. To clear the ambiguity, he suggested that the concerned Registrar or any authorized person be called in the Court alongwith relevant record on the next date of hearing in order to ascertain that this Court's order dated 25.11.2017 has been implemented in letter and spirit and which one of the two contradictory reports is to be considered legit.

With the mutual consent, the matter is adjourned to 09.08.2018 at 10:00 a.m., on which date/time learned Assistant Advocate General shall ensure that the concerned Registrar or any of his duly authorized officer is present in this Court alongwith relevant record.

Interim order passed earlier to continue till the next date of hearing.

JUDGE