

**ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.**

R.A.No. 3 of 2019

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For orders on CMA 20/2019.
2. For orders on CMA 21/2019.
3. For orders on CMA 22/2019.
4. For hearing of main case.

10.01.2019.

Mr. Aghis-u-Salam Tahirzada, Advocate for applicant.

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1. Granted.

2. Granted subject to all just exceptions.

3&4. This revision application impugns the order dated 24.09.2018 passed by learned Ist Senior Civil Judge, Tando Allahyar in Execution Application No.03 of 2017 (Mst. Maryam v. Buxan and others). In terms of which, the Sub-Registrar was directed to cancel the sale deed No.2231 dated 11.10.2010 and Mukhtiarkar was directed to keep entry according to share of Decree Holder (Mst. Maryam) with its possession under intimation to the Executing Court within 10 days.

Learned counsel by way of background submits that late Qadoo alias Qadir Bux died in the year 2000 and left behind a number of legal heirs which included son Buxan as well as daughter Mst. Maryam. Admittedly Mst. Maryam acquired 6 paisa share of her father`s land admeasuring 1-25 acres. Learned counsel states that legal heir Buxan purchased Maryam`s share as well as shares of other legal heirs and sold the same to the applicant. The total area of land sold by Buxan to the applicant was 10-24 acres. Learned counsel states that through F.C. Suit No.26 of 2011, said Maryam sought cancellation of sale deed in favour of Buxan in respect of her share of 6 paisa (1-25 acres), alleging that sale deed was fake and forged.

The trial Court after framing issues and seeking handwriting expert's report, reached to the conclusion that the said sale deed was neither forged nor fabricated as thumb impressions matched, against which Mst. Maryam filed Civil Appeal No.11/2015 which reversed the findings and decreed the suit. Learned counsel states that applicant purchased 10-24 acres of land from Buxan but he was not made party to these litigations. Learned counsel submits that upon acquiring knowledge of these judgments, the applicant filed an application u/s 12 (2) C.P.C. before the 1st Appellate Court which was dismissed, against which a revision application bearing No.215/2018 is pending with this Court.

Also, Buxan filed 2nd Appeal No.39/2015 against the judgment of 1st appellate Court which is also still pending before this Court. Learned counsel coming to the impugned order, states that the Executing Court even after having the knowledge that the application u/s 12 (2) C.P.C. and 2nd appeal bearing No.39 of 2015 as well as a revision application bearing No.215/2018 are pending before this Court, passed the impugned order. Learned counsel further states that the applicant also moved an application U/O 1 Rule 10 C.P.C. in 2nd appeal bearing No.39/2015. Learned counsel drawing the attention to the order impugned, states that despite having knowledge of pendency of three proceedings in this Court, the Executing Court passed the impugned order cancelling the applicant's sale deed No.2231 dated 11.10.2010 in respect of the land admeasuring 10-24 acres purchased by the applicant from Buxan. He says that at best, the dispute agitated by Mst. Maryam could be to the extent of 1-25 acres, claimed to have been fraudulently sold by her brother Buxan. He therefore, requests that the instant revision application as well as three other matters be connected and fixed together. He further states that revision application No.215/2018 is already fixed on 15.01.2019.

In the circumstances, let notice be issued to the respondents as well as learned A.A.G. for 15.01.2019 when all the other connected matters referred hereinabove be fixed. However, the operation and the proceedings instituted in

pursuance to impugned order dated 24.09.2018 passed by 1st Senior Civil Judge,
Tando Allahyar are suspended till the next date of hearing.

JUDGE

Tufail