

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI.
Suit No. 1271 of 2007

Date	Order with signature of Judge
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1. For order on CMA No.2965/18
2. For Final Arguments.

08.03.2018.

Ms. Asma Siddiqui, Advocate for L.Rs. of Plaintiff along with Muhammad Imran and Muhammad Irfan, Legal Heirs.

Mr. Muhammad Ilyas Waraich, Advocate for Defendants No.2 and 4.

Defendant No.2(b), Muhammad Ali, Defendant No.4(b) Siddique and Defendant No.3(b), Akhtar Hussain Agria, are present in person.

Learned counsel for Defendants No.2 and 4 has filed today supporting affidavits for each of the legal heirs of Defendants No.2 and 4, namely, Muhammad Younus, Defendant No.2(c), Hajiani Zareena, Defendant No.2(d) and Mst. Khair un Nisa, Defendant No.2(e), whereas, for widow of Defendant No.2, namely, Mst. Fatima Bai (Defendant No.2(a), her son / attorney, Defendant No.2(b) has signed the listed compromise application. Similarly, on behalf of Defendant No.4, the legal heirs, namely, Abdul Aziz, Defendant No.4(a), Saleh Muhammad, Defendant No.4(c), Muhammad Ishaq Agriya, Defendant No.4(d), Asghar Ali, Defendant No.4(e), Yaqoob Ali Ageria, Defendant No.4(f) and Mst. Abida, Defendant No.4(g) have sworn supporting Affidavits to the Compromise Application. All the above Affidavits are taken on record. Learned counsel for the Plaintiffs has referred to the earlier order of 06.03.2014, to show that Defendants No.5 to 8 were declared *ex parte*, whereas, Defendant No.3(b), Akhtar Hussain Agria, was given further chance to lead the evidence on 04.02.2016, but latter did not even avail that opportunity and his side was closed on 16.03.2016. On the other hand,

learned counsel for the above Defendants No.2 and 4 submitted that Defendant No.3(b) [Akhtar Hussain Agria] is unnecessarily objecting to the Compromise Application-C.M.A.No.2965 of 2018, as his father appeared before the Nazir in pursuance of Preliminary Decree, but never came forward to lead the evidence, nor filed any Written Statement.

The above Statement is according to the record of this Case. The Report of the learned Commissioner available in the Evidence File at page-11, shows that the Akhtar Hussain Agria, the Defendant No.3(b), discontinued to appear before the learned Commissioner for leading the evidence. The over all conduct of this Defendant No.3(b)-Akhtar Hussain Agria does not appear to be *bona fide*. It is further stated by learned counsel for Defendants No.2 and 4 that the Defendants on compassionate ground have decided to give a portion of the godown in property-Survey No.1, Sheet LR-3, Lawrence Road, Karachi, to the Plaintiffs. One of the terms of Compromise Application shows that a portion of above property will be sold and sale proceeds would be distributed amongst the parties / legal heirs.

After some deliberation, the Plaintiffs, who are present in person along with their counsel, make a statement that they do not want to pursue this case further, which may be dismissed as withdrawn. Accordingly, suit is dismissed as withdrawn with no order as to costs along with listed application.

Riaz, P.S./*

Judge