

**ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI**

Suit No. 2134 of 2017

Order with signature of Judge(s)

1. For hearing of Nazir Report dated 18.04.2018
2. For hearing of CMA No.13715/2017 (u/o XXXIX Rules 1 & 2)
3. For hearing of CMA No.13716/2017 (u/o XL Rule 1)

15.08.2018

Mr. Yawar Farooqui, Advocate for the plaintiffs
alongwith Mr. Asad Ali, Advocate
Mr. Waqar Ahmed, Advocate holds brief for Mr. Shahab Sarki, Advocate
for defendants

1. Nazir report dated 18.04.2018 is taken on record subject to all just exceptions and objections. Learned counsel for the plaintiffs contends that while dismissing the defendants' order VII Rule 11 application on 15.03.2018 the learned Single Judge of this Court was pleased to impose a cost of Rs.10,000/- towards the account of the High Court Clinic. While the Court was informed that an appeal has been preferred against that order, however per counsel, this does not relinquish liability of making the payment of Rs.10,000/- as no stay order has been granted nor order has been suspended. A brief is held for the counsel for the defendants, who is out of station, however the Court has been informed that the compliance will be made within three days. Mr. Waqar Ahmed, Advocate undertakes that he will ensure that the counsel for the defendants to make the payment of Rs.10,000/-, as mandated by this Court's earlier order, failing which the Court will be at liberty to deal with this matter on its own.

2. Learned counsel for the plaintiffs presses this application and submits that the property in question is a Waqf property bearing Survey Nos.3, 5, 6, 7, 8 and 10 of SB-5 situated on Abdullah Haroon Road, Karachi admeasuring about 6195 square yards, however the defendants are raising construction and he by placing reliance on reported judgment in the case of Hussain A. Haroon and others v. Mrs. Laila Sarfaraz and others [SBLR 2003 Sindh 57] submits that the

Hon'ble High Court has held that no construction could be raised on Waqf properties without permission of the Court.

In these circumstances while a brief is held for the counsel for the defendants and this application is pending for about one year for which counter has been filed, by way of interim measures the defendants are restrained from raising any construction on the subject property till the next date of hearing when counsel for the defendants to be ready to proceed with.

To come up on 05.09.2018.

JUDGE

Barkat Ali, PA