

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Suit No. 726 of 2016

Order with signature of Judge(s)

1. For orders on CMA No.13535/2018
2. For orders on Nazir's report dated 01.09.2018

10.10.2018

Ms. Seher Rana, Advocate for plaintiffs
Mr. Salman Javed, Advocate for defendant No.1
Mr. Asif Rasheed, Advocate for defendant No.2

Through the instant application counsel for the plaintiff and defendant No.1 have sought extension of time till December 2018 to sell the property being Plot No.51-C, Khayaban-e-Shaheen, Phase VIII, DHA Karachi in accordance with clause 7 of the compromise agreement presented to this Court through CMA No.1732/2017, which was granted by this Court's order dated 25.08.2017. learned counsel for defendant No.1 submits that the said order under clause 7 created a possibility that if the parties do not agree to have the subject property sold within four months for whatsoever reason, the property shall automatically and without any further orders of this Court be sold by the Nazir through public auction as per rules and practice. Learned counsel however states that since the parties had not brought their buyers in terms of the above clause and the Nazir has commenced proceeding to have the same sold through public auction, this application is made for the extension of time for the purpose to bring their own buyers.

To a question that how such an exercise seeking Court's indulgence could be conducted once the compromise decree has been rendered, he

places reliance on PLD 2006 Karachi 410 [Muhammad Saleem v. Mst. Farida Saleem and 3 others].

The suit was decreed through the compromise agreement where in respect of the property described above under clause 7 it was prescribed that, in the first round parties will within 4 months of the date of the orders passed in the compromise application, attempt to have the property sold through their own buyers and once the period of 4 months lapses the property shall automatically and without any further orders from this Court be sold by the Nazir through public auction. Admittedly, the Nazir had commenced the sale proceedings and now this application has been moved on 27.09.2018 nearly 11 months after the date of the compromise order, which to me is an abuse of the process of law.

Through my last order dated 12.09.2018 both the counsel were directed to satisfy this Court as to how such an exercise is permissible, the only answer has come in the shape of reliance in the abovementioned case law, which in my humble view does not attract the circumstances of the present case, Court's valuable time is wasted in the private dispute between the parties. Since the Nazir has already commenced the sale proceedings, I do not see any reason why the parties could not bring those buyers before the Nazir who is moving ahead with the auction proceedings. In the circumstances, the instant application is dismissed. Nazir is directed to proceed with the sale proceedings as per rules.

JUDGE