

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Suit No.845 of 2009

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of CMA No.67/2012.
2. For hearing of CMA No.9598/10.
3. For hearing of CMA No.6283/2011.
4. For hearing of CMA No.6284/2011.
5. For hearing of CMA No.12233/17.
6. For hearing of CMA No.12234/17.
7. For examination of parties/Settlement of Issues.

06.02.2018

Mr. Aziz-ur-Rehman Akhund, Advocate for Plaintiffs.
 Mr. Abdul Razzak, Advocate for Defendants No.1,2 & 3.

1. Through this application, the Plaintiffs seek the legal heirs of Plaintiff No.1 to be brought on record as she has expired on 30.09.2011. None objects. Accordingly, this application is allowed. The plaintiffs are directed to file amended title accordingly.

2 to 7. This is a Suit for Administration in respect of estate / properties left by deceased Muhammad Siddiq Ahmed Khan, who expired at Karachi, on 20.06.2007 leaving behind the following immovable and moveable properties:-

- i) House No.87/21, Sector 11-F, New Karachi, measuring 120 sq. yds.
- ii) Commercial Plot No.ST-20, Sector 11-F, New Karachi Town, measuring 320 sq. yds.
- iii) Shop No.A-4/13, Sector 5-F, 7000 Road, New Karachi.
- iv) Behboob Saving Certificates, bearing Nos.D576226, D576550, D102655, D576631, D576225, D831436, D576100, each denomination at Rs.100,000/- and No.C186211, C186128, C186336, C186250, C186173 each denomination at Rs.50,000/- total denomination at Rs.1 million, with past and future profit/markup.

The parties to this Suit are legal heirs of the deceased. There is one property bearing No.87/22 measuring 120 Sq. Yds. Sector 11-F, New Karachi, which is in the name of Defendant No.4, however, the claim of the Plaintiffs as well as Defendants No.1,2 & 3 is to the effect that this was also owned by the deceased but he had purchased the same in the name of Defendant No.4 as a

benami. It further appears that the Defendants No.1,2 & 3 do not dispute the claim of the Plaintiffs as they have come before this Court and admitted the claim including an application for their transposition as the Plaintiffs. However, this is a Suit for Administration, and therefore, it has no bearing whether they remain as plaintiffs or defendants. Insofar as Defendant No.4 is concerned he has been declared ex-parte and through one application bearing CMA No.6283/2011, he claims that the property bearing No.87/22 measuring 120 Sq. Yds. Sector 11-F, New Karachi is owned by him in his capacity as owner and is not the property of the deceased.

In the circumstances, all the pending applications are disposed of by passing a Preliminary Decree in respect of immovable and movable properties (as stated in Para-3 of the Plaint) by appointing Nazir of this Court as Administrator in terms of Order 20 Rule 13 CPC in this matter to carry out investigation and enquiry into estate left by the deceased and respective shares of the legal heirs who are parties to present Suit. Nazir's Fees is fixed as per rules which shall be payable by all the legal heirs of the deceased to the extent of their respective shares. Insofar as the properties of deceased which are not in dispute are concerned, the Nazir is further authorized to sell the same according to Rules, subject to the condition that clean title document(s) are provided by the parties and such sale shall be on as is where is basis. Moreover, all the legal heirs may be given the right to meet the highest offer. After completion of the exercise, Nazir shall submit his report for passing of necessary order(s) for the purpose of passing a final decree in the matter.

Insofar as the property bearing No.87/22 measuring 120 Sq. Yds. Sector 11-F, New Karachi is concerned, since at the time of death of the deceased, it was admittedly in the name of Defendant No.4, which claim is disputed, therefore, evidence has to be led by the parties in respect of their claims. For this purpose, following Issue is settled, for which the parties shall lead their evidence before the Nazir of this Court, who is also appointed as Commissioner in this matter.

- i. Whether the property No.87/22 measuring 120 Sq. Yds. Sector 11-F, New Karachi is owned by Defendant No.4 as a Benami of deceased Muhammad Siddiq Ahmed Khan?

Parties are directed to approach the Nazir for leading their evidence. For this purpose Nazir's fee is settled at Rs.25,000/- which would be paid by the parties according to their shares. Nazir shall complete the exercise preferably within three months from today.

Office is directed to prepare preliminary decree under Order 20 Rule 13 CPC read with Appendix D in the above terms.

All the pending applications stand disposed of.

J U D G E

Ayaz P.S.