

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Suit No. 104 of 1999

| Date | Order with Signature(s) of Judge(s) |
|------|-------------------------------------|
|------|-------------------------------------|

1. For order on Nazir's report dated 29.01.2021.
2. For hearing of CMA No. 712/2021.
3. For order on Nazir's report dated 23.06.2020.
4. For hearing of CMA No. 4208/2019.

22.02.2021

Mr. Rehman Aziz Malik, Advocate for plaintiffs.

Mr. Sarafarz Anthony Khokhar, Advocate for defendants No. 3 to 5.

Mr. Muhammad Azhar Faridi, Advocate for auction purchaser.

Mr. Muzaffar Ali Advocate holding brief for Ms. Afsheen Aman, Advocate.

Mr. Ziauddin Junejo, AAG.

Defendant No. 2 (a) for herself and for defendants No. 2(b) to (f).

1&2. By means of this application (C.M.A. No. 712/2021), the defendants No. 2 & 3 have sought direction to Nazir of this Court to distribute the sale amount of the suit property amongst plaintiffs and defendants, as per list mentioned in paragraph No. 2 of the main plaint and paragraph No.6 of the partnership deed of M/s. Hakimulalh Engineering Work.

In compliance of order dated 19th January, 2021, Nazir has submitted his report, which reflects that in compliance of order dated 18th September, 2020 the bid of auction purchaser was accepted and an amount of Rs. 14,000,000.00 was deposited with him, and in terms of judgment and decree the amount of sale proceeds is to be distributed amongst the plaintiff and legal heirs of defendant No. 2, as per following ration:-

| | |
|---------------------------------|-------------|
| Plaintiff No. 1 | 20% |
| Plaintiff No. 2 | 10% |
| Plaintiff No. 3 | 10% |
| Total | 40% |
| <u>Defendant No. 2(a) to f)</u> | <u>60%.</u> |
| <u>Total</u> | <u>100%</u> |

It further reflects from the Nazir's report that all the parties have jointly submitted a statement dated 30.12.2020 stating therein that an amount of Rs.4,000,000.00 may be retained for clearance of dues against suit property and remaining amount may be distributed as per judgment and decree. Thereafter, in

compliance of order dated 18th September, 2020, the share of the plaintiff being undisputed was released and since the parties disputed over the share of defendant No. 2, the same was retained with his office. The detail of all the amount and share of the parties as per judgment and decree has also been mentioned by the Nazir in paragraph No. 4 of his report.

It further reflects from the report that the share of defendant No. 2 comes to Rs.5,916,000.00, which is lying with the Nazir. Judgment and decree so passed in this case does not reflect any amount payable to other defendants except defendant No. 2. It further reflects that vide order dated 5th December, 2016 this Court dismissed C.M.A. No. 11821/2015, filed on behalf of defendants No. 3 to 5, seeking directions to Nazir of this Court to distribute shares of said defendants at the ration of 15% each, observing that in view of order/judgment and decree dated 14th April, 2014 said application cannot be entertained, muchless, in the instant suit and defendants No. 3 to 5 are at liberty to seek their remedy, if so advised in appropriate proceeding in accordance with law. Hence, in view of judgment and decree only the defendant No. 2 is entitled to get 60% share; however, if on any internal arrangement the defendant No. 2(a) to (f) are willing to pay shares to defendants No. 3 to 5, they may do it.

Accordingly, this application is disposed of directing the Nazir of this Court to release share of defendants No. 2(a) to (f), after proper verification and identification as per rules. Nazir is also directed to expedite the matter for the payment of dues against the suit property.

Application stands disposed of and Nazir's report dated 29.01.2021 is taken on record.

3. Nazir's report dated 23.06.2020 is taken on record.

4. None is present for the applicant/intervenor; hence, this application is dismissed for non-prosecution.