

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Suit No. 1855 of 2017

Order with signature of Judge(s)

- For examination of parties/settlement of issues

17.08.2021

Mr. S. Hasan Jafri, Advocate for the plaintiff

This suit is filed for the administration, partition, means profit and permanent injunction by the plaintiffs, which include husband, son and two daughters of deceased Abida Nasreen Bibi, who as per Annexure-B expired on 28.05.2017 leaving behind the plaintiffs as well as the defendants, which include one son and three daughters as legal heirs. Family registration certificate is attached as Annexure-D.

Learned counsel for the plaintiffs submits that the deceased, as evident from page No.41, had lease hold rights in respect of plot bearing No.B-1/16, Dehli Colony, Bazar Area, Clifton Cantonment, Karachi, where some of the plaintiffs as well as the defendants are residing. Counsel contends that the private defendants were summoned as well as served through normal as well as substitute modes including publication in the daily Express newspaper of 09.03.2019, however none has affected appearance to file written statement or has chosen to come forward. Defendant No.5 Cantonment Board has filed written statement. A request has been made to declare defendant Nos.1 to 4 *ex parte* and for the Court to proceed against them as such. Order accordingly as each of them has failed to appear and file written statement(s) as they were already debarred by A.R (O.S) order dated 04.09.2020.

Alongwith the instant suit, an application under order XX rule 13 for Preliminary Decree read with order XII rule 6 CPC has been made seeking directions of this Court for the appointment of the Nazir to collect

the original title file of the suit property from defendant No.1 and to take account of the suit property in respect of rental value of the same to the extent of Rs.20,000/- per month since June, 2017 up till the time of finalization of the said suit and thereafter to put the suit property to auction and to distribute the sale consideration amongst all the legal heirs in accordance with Muhammadan law after deducting rental value from the shareholders. Neither counter affidavit, nor objections have come against such application.

Since it is a suit for partition and distribution of inheritance, therefore, in the first instance in terms of order XX rule 13, a request for Preliminary Decree is made. In the given circumstances, application is allowed. Let Preliminary Decree be passed under order XX order rules 13/18 CPC by appointing Nazir as administrator in respect of the suit property with the mandate of collecting the original title file of the suit property from defendant No.1 and to take account of the rentals of the suit property to the extent of Rs.20,000/- per month since June, 2017 till date. Seek valuation of the subject property from three reputable Estate agents of the locality and file his report within 30 days at the cost of Rs.15,000/- payable by the plaintiffs. Parties are directed to assist the Nazir in the tasks mandated, failing which, appropriate orders would be passed.

To come up after 30 days.

JUDGE