

Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI

Suit No. 1155 of 2011

Date	Order with signature of Judge
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For orders on Commissioner report dated 18.06.2021.

27.08.2021.

Mr. Mansoor ul Arfin, advocate for the plaintiff.
Ms. Amna Usman, advocate for defendant No.1.
Ms. Naheed A.Shahid, advocate for defendant No.2.

Through the listed reference/report, learned Commissioner for recording evidence seeks order in respect of confirmatory affidavit-in-evidence filed by one of the legal heirs of the plaintiff after completion of evidence of the plaintiff's side. Learned counsel for the plaintiff submits that the plaintiff during pendency of this suit has expired and his legal heirs have been brought on record being plaintiff (i) to (vii). Learned counsel further submits that except plaintiff (iii)-Ambreen Younus, the legal heirs of the plaintiff are being represented through attorney namely Muhammad Farooq. He also submits that the attorney of the plaintiff has been examined in the matter, however, after completion of the evidence of the plaintiffs' side, as an abundant caution, plaintiffs intend to examine one of the legal heirs of the deceased through the confirmatory evidence so that in future, defendants may not raise any objection that the legal heirs of the plaintiffs were not examined in the matter.

Learned counsel for defendant No.2 vehemently opposed such request and submits that since the evidence of the plaintiff has already been recorded as such there is no provision under the law to file confirmatory affidavit-in-evidence. She further submits that since the evidence of the plaintiffs' side has already come on record as such legal heirs of the plaintiff are not required to be examined individually.

It is an admitted position that the legal heirs of the plaintiff are being represented by the attorney, who has already deposed in the matter as such the evidence of the legal heirs are not required unless some special circumstances arise that too with the permission of the Court, which in the present case is lacking.

In the circumstances, apparently there is no need to examine the legal heirs of the plaintiff individually after recording of the evidence of Plaintiffs' Attorney. Hence, the Confirmatory Affidavit of Mrs. Shahnaz Younus filed before the Commissioner is discarded. If the Plaintiff does not wish to examine any other witness, as per the list of witnesses, already filed in this matter, the defendants are directed to produce their evidence before the learned Commissioner.

Learned counsel for the parties submit that the time granted to learned Commissioner for recording evidence has expired as such further time may be extended. Accordingly, further four months' time is granted to the learned Commissioner to conclude the Commission. Office is directed to communicate this order to learned Commissioner for compliance.

JUDGE

*TahirJamil*****