

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

SUIT NO.942 of 2013

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For order on Official Assignee's Reference No.06/2016.
2. For hearing of CMA No.9196/16 (U/S 151 CPC)

09.06.2016.

Ms. Sadia Khatoon, Advocate alongwith the plaintiff.
Mr. M/s. Muhammad Rafi Kamboh and Farukh Usman, Advocates for the defendants along with Mst. Ameer Bano (Defendant No.1) and other defendants. Mr. Sajjad Ali Memon, Rep. of Official Assignee.

1. In this matter a preliminary decree was passed on 13.12,2013, whereafter on 07.08.2015 an order was passed, the relevant portion whereof is as under:-

"Today, the defendants No.1 and 2 have submitted a statement to the effect that they would pay the share of the plaintiff within the period of three months and in case of their failure the House No.2/1, Creek Lane-8, Street-P, Khayaban-e-Bukhari, Phase-VII, Defence Housing Authority, Karachi maybe sold out through auction and its sale proceeds may be disbursed as per respective shares of the legal heirs and they will contest the suit for other properties.

Learned counsel for the plaintiff submits that the defendants have not taken any serious efforts for payment of his share in the said house and they are just lingering on the matter on one pretext another.

Since the defendants No.1 and 2 want to retain the said house by making payment of share of the plaintiff, therefore, this is with a view to give them a chance to pay the share of the plaintiff fin the said house, two month's time hereof is granted to them. In case of failure, the Official Assignee is directed to sell the property/house in question in accordance with Law."

Subsequently, another Order was passed on 08.10.2015 in the following terms:-

"It appears that in pursuance of the order dated 07.08.2015 the defendants No.1 & 2 were required to make payment of the shares of the plaintiff out of offer of Rs.4 crores. Though time has lapsed but since amount is huge they request that on such property involved in this suit be released which is in the name of defendant No.1. This request is opposed by the learned Counsel for the plaintiff as it is yet to be determined as to who is the owner of the property.

Insofar as the undisputed properties are concerned regarding which offer has been made, I extend two weeks' time to deposit the share of plaintiff in case the defendants No.1 & 2 are desirous to pay it otherwise the Official Assignee is directed to sell the property in accordance with law."

However, both the aforesaid orders were not complied with and no payment has been offered and made to the Plaintiff, whereas, perusal of the order sheet reflects that time and again the defendants have promised to pay the share of the plaintiff, and the Court as a matter of indulgence has granted them sufficient time.

The Official Assignee, pursuant to order dated 8.10.2015 has conducted the auction of the properties and has today placed his Reference bearing No. 06 of 2016 before the Court in respect of the Auction conducted in respect of various properties of the deceased. Out of the 6 properties, no offer was received in respect of the properties listed at Serial No.(ii) and (iii) of the Official Assignee's Reference. After receiving bids, bidders were asked to improve their offers in respect of Bungalow No.2/1, Creek Lane-8, Street-P, Khayaban-e-Bukhari, Phase-VII, D.H.A., Karachi measuring 400 Sq. Yds. and the highest bidder initially offered Rs.3.64 Crores and has subsequently improved his offer to Rs.4.12 Crores. The highest bidder has given a Pay orders of 25% of his bid amount of Rs.3,64,00,000/- (Rupees Three Crores Sixty Four Lac) amounting to Rs. 91,00,000/- (Rupees Ninety One Lac). The defendants as a last and final chance were asked in Court to match the highest bid and pay off the share of plaintiff accordingly, but they have not responded in the affirmative and have made an attempt to seek further time. Since considerable time has already been granted to them, in the circumstances, the Official Assignee's Reference is taken on record and the improved offer of Rs.4.12 Crores, given by Mr. Abdul Bari Khan is accepted with the condition that the balance amount would be deposited by him within 15 days from today. The reference is taken on record in the above terms.

2. Adjourned.

J U D G E

Ayaz P.S.