

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Ex. No.55 of 2011

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For orders on CMA No.526/2017.
2. For further orders on CMA No.475/2017.
3. For hearing of CMA No.353/2017.
4. For hearing of CMA No.392/2017.

22.11.2017.

Mr. Rafiq Ahmed Kalwar, Advocate for Decree Holder.
Mr. Irfanullah Khan, Advocate for Auction Purchaser.
Mr. Muhammad Arif Shaikh, Advocate for Bidder.
Mr. Shahzad Ashraf, Advocate alongwith Mr. Khuram Ashfaq, Advocate.

1,2,3 & 4. It appears that pursuant to Order dated 30.01.2017, auction of the properties in question was carried out and Nazir has furnished his two reports, which were taken on record on 06.11.2017 subject to exceptions. It appears that auction was carried out and offers were received and thereafter bids were improved and the reference was placed. Subsequently, some applications have been filed, wherein, the auction purchaser as well as other parties have approached this Court for matching and/or increasing the bids already received.

On the other hand, learned Counsel for the Decree Holder submits that since sale proclamation was not in accordance with the rules and dicta laid down by the Honourable Supreme Court in the case of ***Messrs Lanvin Traders Karachi v. Presiding Officer, Banking Court No.2, Karachi and others*** reported as **2013 SCMR 1419**, whereby, the reserved price is required to be so stated, hence the auction proceedings have not been conducted properly. He prays that re-auction be ordered. He has also placed on record the advertisement/sale proclamation issued by the Nazir.

In view of hereinabove and for the fact that no reserved price was stated, let both the properties be put for re-auction in accordance with rules and above observations in furtherance of Order dated 30.01.2017.

Nazir's fee is settled at Rs.50,000/- in respect of re-auction being carried out at the insistence of Decree Holder. Same is to be deducted from the share of Plaintiff/D.H once the sale is finally completed. This exercise to be completed within two months from today.

Since re-auction has been ordered, Nazir is directed to return pay orders, if any, available with him to the auction bidders.

All four listed applications are disposed of in the above terms.

J U D G E

Ayaz P.S.

Late Diary:

Before the order could be signed it has transpired that in this matter the decree is only to the extent of transfer of properties in favor of the Decree Holder and not beyond that, whereas, even in the Execution Application, the Decree Holder has made the same prayer. In the circumstances, it appears that prima facie the order dated 30.1.2017, whereby sale has been ordered and this Execution Application has been disposed of, is beyond the mandate of the decree itself, and perhaps no proper assistance has been provided to the Court. Accordingly, learned Counsel for the Decree Holder is directed to satisfy and assist the Court on this issue on the next date.

To come up on 13.12.2017. Office to issue intimation notice to the Counsel for Decree Holder and Judgment Debtor accordingly.

J U D G E