

**ORDER SHEET**  
IN THE HIGH COURT OF SINDH, KARACHI  
II-Appeal No. 40 of 2013

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Date Order with signature of Judge

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1. For hearing of CMA No. 2162 of 2013.
2. For hearing of main case.

**10<sup>th</sup> March 2020**

Mr. Adnan Ahmed, advocate for appellant.  
Mr. Muhammad Akhtar Khan, advocate for respondent No.10

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Heard learned counsel for the respective parties.

It is matter of record that learned IV-Additional District & Sessions Judge, Karachi Central disposed of Civil Revision No. 45 of 2009, Civil Appeal No. 99 of 2009 and Civil Appeal No. 137 of 2011 by common judgment, though reasons were assigned separately in same order and the same were filed separately against the judgments passed in independent proceedings. It is further brought on record that production of *Waqf deed* which was objected on the plea that same is Photostat copy and trial Court observed that this aspect would be decided at the final arguments. Besides, it has come on record that witness Anwar Alam Siddiqui was examined by the trial Court, however, no cross-examination was conducted and on that basis plaint was rejected. Ultimately, by order of this Court in Revision Application case was remanded back to the trial Court to adduce the evidence. Accordingly, impugned judgment, whereby three separate proceedings were consolidated without desire of any party, was unwarranted under the law as in suit for administration the party who is claiming *waqf* in his favour was not party. Hence, judicial propriety demands to set aside impugned judgment and remand back the case to the appellate court to decide the controversy in all three cases separately after hearing the parties preferably within three months. Needless to mention that all legal questions as raised above including evidence shall be considered as scope of appeal, which is continuity of original trial.

Instant appeal stands disposed alongwith pending application.

J U D G E