

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
High Court Appeal No. 225 of 2020

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Date

Order with Signature(s) of Judge(s)  
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Hearing of case

- 1.For order on office objection
- 2.For hearing of main case
- 3.For hearing of CMA No.2689/20 (stay)

**25.02.2022**

Mr. Ravi Pinjani, advocate for appellant

Mr. Muhammad Nauman Jamali, advocate for respondent No.1

Mr. Zeeshan Abdullah, advocate for respondent No.2  
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Learned counsel for respondent No.2 has filed a statement along with annexures containing three Nazir's reports filed pursuant to the impugned order and submits that since the order which is impugned in this appeal, has been implemented, whereas, the appellant is still at liberty to agitate his grievance before learned Single Judge in the suit which is still pending; therefore, instant appeal may be disposed of having become infructuous. While confronted with this position, learned counsel for the appellant submits that though the impugned order passed by learned Single Judge has been acted upon by Nazir of this Court, however, the adverse observations made by learned Single Judge in Para-12 of impugned order to the extent that "*the instance of the defendant (appellant) appears to be misconceived*", may be set aside as it will adversely affect to merits of the case as well as rights of the appellant relating to income generated out of cultivating the agriculture land which is admittedly owned by the deceased as such he requests that the appeal may be disposed of with the observation that the aforesaid remarks may not come in the way of learned Single Judge while deciding the suit on merits and would not adversely affect to the application already filed by the appellant in the suit for framing of an issue relating to determination as to whether the appellant is entitled to the proceeds out of cultivating of agriculture land and/or the respondents have also a share in such proceeds?

Accordingly, instant HCA stands disposed of along with listed application with the observation that adverse remarks in Para-12 of impugned order as stated hereinabove, would not effect to merits of the case and/or claim of the appellant before learned Single Judge in the suit which is to be decided independently on the basis of oral as well as documentary evidence produced by the parties in accordance with law.

JUDGE

JUDGE

Ashraf