

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Execution Nos.32 of 2021 and 38 of 2022

Date	Order with signature of Judge
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For orders on CMA 2829/2022 & 2830/2022

Dated: 16.11.2022

Mr. Basil Nabi Malik for decree holder.
Mr. Fazal-ur-Rehman for judgment debtors.

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Urgent applications are granted and the execution applications are taken up for hearing.

Suit Nos.1588 of 2013 was compromised between private parties i.e. plaintiff and defendants, excluding SITE. The decree was passed on 30.06.2021 and 08.09.2022 and these execution applications were then filed on 05.11.2021 and 23.09.2022 respectively. Notices were issued to the judgment debtors who are represented by Mr. Fazal-ur-Rehman Advocate. Neither at the time of compromise, as recorded before the Court when the suits were compromised nor before the Court in these execution applications any objections whatsoever were raised. I do not see any reason as to why these judgment debtors are compelled to appear in these execution applications when there was an amicable settlement by way of compromise between the parties and are still willing to perform. Even today these judgment debtors are willing to execute the conveyance deed subject to payment of consideration which consideration too is not objected by decree holder. Nothing was adjudicated by the Court as to the entitlement of the parties and status of property; it was compromised out of Court which was reduced into writing and which was taken on record by this Court. Under the circumstances, Court's umbrella should not have been used in matter of execution which disputes were not adjudicated by Court. Nothing commented about the title of the subject property by trial Court, which was/is being conveyed by one private party to another in terms of the compromise reached amicably without adjudication. No indulgence as to appointment of Nazir to do the needful is required. The execution applications as such are dismissed.

Judge