

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
H.C.A. No.159 of 2021

Date	Order With Signature Of Judge
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Present: Aqeel Ahmed Abbasi, J
 Kausar Sultana Hussain, J

- 1.For hg of main case
- 2.For hg of CMA No.1909/21

22.09.2022.

Mr. Muhammad Mustafa Lakhani, advocate for appellant.
Mr. Muhammad Ali Lakhani, advocate for respondent.
Ch. Muhammad Arif, advocate for KMC.

1. Instant High Court Appeal has been filed against an order dated 02.06.2021, passed on CMA No.943 of 2021 by learned Single Judge of this Court in SMA No.185 of 2015 in the following terms:-

“It is stated that Sindhi Muslim Cooperative Housing Society, Karachi-SMCHS, does not have a procedure for mutating sub-lessees/owners of apartments situated in multi-storied buildings, which are built within the territorial limits of the SMCHS. This plea is not acceptable, because before undertaking any construction work including that of multi-storied buildings, building plan is forwarded by the concerned lessor/principal owner, in the present case SMCHS. The Management of SMCHS should, if required, amend its bye-laws so that genuine sub-lessees/owners of apartments should not face problems in dealing with and disposing of their flats, other spaces in a building. Practice and procedure as adopted by Defence Housing Authority, Clifton Cantonment Board and Military Estate Office, may be followed.

SMCHS should issue letter of mutation to Petitioner and Legal Heirs after completing their requisite formalities so that their interest is safeguarded in respect of the apartment - Flat No.202, Second Floor, situated at Plot No.39 (old Survey No.B-39), Sindhi Muslim Cooperative Housing Society, Karachi. It is expected that within four weeks, necessary letter will be issued.

In view of above, application [C.M.A. No. 943 of 2021] stands disposed of.”

2. During course of hearing the appeal, learned counsel for the appellant was directed to point out any error or illegality in the impugned order, in response, the learned counsel for the appellant after arguing the matter at some length, submits that the appellant is willing to comply with the impugned order passed by the learned single Judge of this Court passed in S.M.A. No.185 of 2018 and to mutate the name of respondent, namely, Mrs. Yasmeen Abdul Rehman Khan wife of Late Abdul Rehman Khan (along with other legal heirs), in respect of the apartment/flat No. 202, Second Floor, situated at Plot No.39 (old Survey No.B-39), Sindhi Muslim Cooperative Housing Society, Karachi, in spite of the fact that SMCHS has no procedure for mutating sub-lease of apartments/flats constructed in multi-storied buildings in SMCHS, however, submits that as per their record, the subject plot and the construction thereof has not so far been leased, therefore, submits that it will be in the interest of the respondent to get the lease/sub-lease in respect of subject plot and their apartment/flat in accordance with law.

3. Learned counsel for the respondent submits that since the respondent has acquired right and interest in respect of the subject apartment/flat pursuant to an order passed in the aforesaid SMA, whereas, such apartment/flat was purchased through a registered Sale Deed by the deceased husband of the respondent, whereas, there are three other apartments/flats as well constructed on the subject plot, therefore, the respondent can only obtain lease/sub-lease in respect of her apartment/flat, provided the lease of the entire plot and the apartments/flats constructed thereon is given by the appellant in accordance with law.

4. Since the learned counsel for the appellant has expressed his willingness to comply with the order passed by the learned single Judge in the aforesaid SMA to mutate the name of respondent and other legal heirs of deceased Abdul Rehman Khan in their record in respect of the subject apartment/flat, therefore, we dispose of instant High Court Appeal with the directions to do the needful within fifteen days, whereas, the issue regarding lease/sub-lease of the subject plot/construction thereon, may be dealt with by the parties separately in accordance with law. Let compliance may be submitted to this Court within one month through M.I.T. of this Court.

Instant High Court Appeal along with pending application stands disposed of in the above terms.

JUDGE

JUDGE

HANIF