

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

Suit No.585 of 2022

Khalid Inam
Versus
Mrs. Summaya Rehman & others

Date	Order with signature of Judge
------	-------------------------------

For hearing of CMA 17856/2022

Date of hearing: 09.03.2023

M/s. Omer Soomro and Danish Nayyer for plaintiff.

Mr. Arshad Tayebaly and Ms. Heer Memon for defendants No.1 to 4, 9 and 10.

Mr. Muhammad Khalid for defendant No.6.

Syed Ahsan Ali Shah for defendant No.12.

-.-.-

Muhammad Shafi Siddiqui, J.- Plaintiff has filed this suit for declaration, administration, accounts and mesne profits. Plaintiff seeks a declaration that the properties listed in paragraph 8(c) to (f) of the plaint are in fact owned by deceased Shaikh Inam ur Rehman and stands ostensibly in the name of defendant No.1. All moveable properties left by the deceased at the time of his sad demise are disclosed in paragraph 2(a) to (s). Paragraph 8(a) to (f) discloses immovable properties and for four of them [8(c) to (f)] defendant No.1 is disclosed in the plaint to be an ostensible owner. Paragraph 12 of the plaint discloses foreign properties i.e. immovable and moveable assets/properties left by the deceased, however, reason assigned by plaintiff to not include these properties in this suit for administration is that these are beyond territorial jurisdiction of this Court and that plaintiff would take steps in this regard, as advised.

2. While this suit is pending for declaration and administration of the properties of the deceased, an application under order XX Rule 13 CPC was filed by defendants No.1 to 4, 9 and 10 that insofar as undisputed properties are concerned, a preliminary decree be passed. Details of the properties left by the deceased Inam ur Rehman, which in terms of the application in hand and/or written statement, claimed to be undisputed, are as under:-

S. No.	Particulars	Moveable/ immovable	Value	Disclosed in the plaint as
1	A/c No.20610-714-230736 Habib Metro Main Branch, Karachi.	Moveable	8,468,509	2(b)
2	Bank Julius Bear & Co. Switzerland	Moveable (foreign account)	Approx. 142 Million	12(f)
3	Apartment in International City Dubai	Immovable (foreign property)	-	12(d)
4	Open plot No.343, SCHS Ltd. Malir	Immovable	-	8(a)
5	512-Silicon Heights-UAE	Immovable (foreign property)	-	12(a)
6	618-Silicon Heights-UAE	Immovable (foreign property)	-	12(b)
7	815-Silicon Heights-UAE	Immovable (foreign property)	-	12(c)
8	Shares in N.P. Spinning Mills	Moveable	2,280,820 shares of Rs.10/- each	2(o)
9	Shares in N.P. Waterproof Industries (Pvt.) Ltd.	Moveable	8,805 shares of Rs.100/- each	2(n)
10	Investment in Mutual Funds MCB Arif Habib UBL Funds	Moveable	5,689,249 5,283,004	2(p)
11	Shares of listed companies Lucky Cement OGDC	Moveable	12,500 shares 7,000 shares	2(q)

3. I have heard learned counsel appearing for the parties and perused material available on record.

4. Plaintiff has filed a counter-affidavit to this application and has taken a defence that the correct details of the assets of the deceased have not been disclosed in the application in hand, which in fact was disclosed by the plaintiff in the plaint, which I have gone through.

5. The only defence taken in paragraph 4 of the counter-affidavit is that the joint accounts held by the deceased at the time of his death with defendant No.1 may also be made part of this preliminary decree, wherefrom funds have been transferred.

6. The defence of plaintiff to contest defendants' application under order XX Rule 13 CPC that the amount transferred from the joint accounts of deceased be also looped, is inconceivable to be made part of preliminary decree since it was/is operated by the survivor. It requires evidence if any of those joint holders is also ostensible.

7. However, as far as the properties beyond territorial limits are concerned, Supreme Court in the case of Ramzan¹ has relied upon the principles of private international law and courts were bound to apply same whenever necessary hence I exclude all such foreign properties from the consideration of application under order XX Rule 13 CPC.

8. The application under order XX Rule 13 CPC (CMA No.17856/2022) thus is considered only to the extent of properties in the name of deceased and are within this Court's jurisdiction, i.e. in Pakistan, being suit for administration, and is allowed accordingly to such an extent.

Dated:

J U D G E

¹ PLD 2016 SC 174 (Muhammad Ramzan v. Nasreen Firdous)