

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI
H.C.A No.440 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGES
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Hearing (priority) case

1. For orders on office objection
2. For hearing of main case
3. For hearing of CMA No.4374/2022 (Stay Application)

28.08.2023

Mr. Nabeel Kolachi, Advocate for the appellant
Mr. Saif Ali Akbar, Advocate for Respondent No.1
Mr. M. Suhail H.K Rana, Advocate for Respondent No.3

This appeal challenges order dated 01.12.2022, where per learned counsel for the appellant, while the learned single Judge considering hardship of the plaintiffs issued orders that respective share of the plaintiffs in respect of rental income from property No.12 be given to the plaintiffs. However, for certain reasons, share of the defendant (the present appellant) was directed to be retained by the Nazir probably with the background that the appellant is nominated in the crime that led to the murder of the plaintiffs' father and she is facing the trial.

Court's attention has been drawn to Section 317 PPC, which debars any person who had committed murder from the proceeds of the succession. Per learned counsel, the trial is still under way and no conviction has been awarded as yet, the appellant is on bail and she has no other source of income therefore in all fairness when there is an admission on the part of the plaintiffs that the appellant is second wife of the deceased under law and Sharia, she is also eligible for her share as well as where it is pleaded that the appellant is facing serious hardship too.

In these circumstances, this appeal is disposed of by issuing directions to the Nazir that he should also hand out share of the appellant from the income received from property No.12 subject to a personal bond for the equivalent amount. With regard to the future disbursement, as held in the order impugned, the process designated therein will continue to follow.

This disposes of the instant High Court Appeal.

Judge

Judge