

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

C.P. No.D-1554 of 2023

Abdul Hussain & others  
Versus  
XII Additional District & Sessions Judge & others

Date	Order with signature of Judge
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1. For hearing of CMA 7707/23
2. For hearing of main case.

**Dated: 17.01.2024**

Mr. Jaffer Raza for petitioner.

Saifuddin Salehbhoy Haryanawala and Arif Hussain, legal heirs of respondents No.3 and 4 respectively in person.

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Petitioners have impugned order of revisional Court passed in Civil Revision Application No.138 of 2022 which itself impugned an order of the executing Court dated 19.09.2022 passed in Execution Application No.01 of 2007.

Primary grievance of Mr. Raza is that on the strength of a preliminary decree the official record has been mutated in respect of the subject immovable properties to the extent of shares assigned in the judgment. It is petitioners' case that on the strength of preliminary decree the properties should not have been mutated in the official record.

We have heard learned counsel for petitioners and perused the record whereas Saifuddin Salehbhoy Haryanawala and Arif Hussain, legal heirs of respondents No.3 and 4 respectively, are also present in person.

The suit was originally filed in the year 1973 and assigned fresh number as 2421 of 1996, which was disposed of/decreed on 02.10.2013. It is for immovable properties and also for accounts. As far as immovable

properties are concerned for that purpose the decree is final however as far as accounts are concerned that is to be taken and only for that matter the decree was and/or is being considered as preliminary decree as accounts are yet to be taken. The money claim of the respondents is thus yet to be finalized. As far as immovable properties are concerned, subject to the outcome of the lis pending before Supreme Court, as stated by Mr. Jaffer, is final. Hence, the executing Court has rightly allowed the execution application to the extent of immovable properties and the record has been accordingly mutated, subject to above i.e. any decision by Supreme Court in the lis pending before it.

With the above understanding, and as consented by learned counsel for petitioners, we dispose of this petition along with listed application in the above terms. The accounts, as and when are finalized, may also be given effect of a final decree, subject to right of appeal, if any.

**Judge**

**Judge**