

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

High Court Appeal No. 417 of 2023
(Adnan Aziz Ahmed Vs. Rakil Ahmed Zaman & others)

Dated	Order with signature of Judge
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Present:
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Omar Sial

Hearing Case (Priority)

1. For order on office objection
2. For hearing of Main Case
3. For hearing of CMA No. 5328/2023 (stay)

Dated 25.01.2024

Mr. Irtafaur Rehman, Advocate for the Appellant
Mr. Abdul Razzaq Advocate for the Respondent Nos. 5 and 6

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Muhammad Shafi Siddiqui, J.- In a suit for administration certain properties have been identified in para-4 of the plaint. It is Appellant's case that one of the property of the deceased mentioned in para 4 of the plaint as (a) House No.3, Street No.31, Shalimar, Sector F-7/1, Islamabad, which now vests with the legal heirs as identified in the suit for administration to the extent of respective shares of three sisters and a brother was disposed of, whereas, the lawful share of the Appellant in terms of its real value was not handed over. It is also a question whether a joint property which is a house could be disposed of without resorting to an understanding as to how the share in an immovable property (undivided) is to be distributed and resolved. It is further claimed that in the said house the Appellant had an independent 25% share, whereas, rest of 75% share was in fact share by inheritance amongst all legal heirs.

2. Be that as it may, another property of Karachi mentioned in para-4 of the plaint at (b) House No. 55, Clifton, Karachi was also disposed of through Court auction and wherefrom the respective share is being claimed,

as available with the Nazir. At this point of time it is claimed that such confirmation of sale is a subject matter of a land pending before the Supreme Court, hence unless the share of property at para 4(b), in a lis pending before Supreme Court is determined the amount of purported share lying with the Nazir in respect of property at para 4(a) should not be released.

3. We have heard the learned counsel and we are in agreement to such an extent that in a suit for administration unless all shares are determined in respect of the properties highlighted therein no one should get away with his or her share when a resolution of dispute of accounts and entitlement, in respect of all properties is resolved. Hence to the extent of share which was ordered to be released to the sisters and a brother is recalled and appeal to such an extent is allowed.

JUDGE

JUDGE

Amjad PS