

# IN THE HIGH COURT OF SINDH, KARACHI

*High Court Appeal No. 249 of 2022*  
*along with*  
*High Court Appeal No. 250 of 2022*  
 &  
*High Court Appeal No. 251 of 2022*

PRESENT:

MR. JUSTICE AQEEL AHMED ABBASI  
 JUSTICE MRS. KAUSAR SULTANA HUSSAIN

**Fresh Case**

**H. C. A. No. 249 of 2022**

1. *For orders on CMA No. 2306/2022.*
2. *For orders on office objection a/w. reply at 'A'.*
3. *For orders on CMA No. 2307/2022.*
4. *For hearing of main case.*
5. *For orders on CMA No. 2308*

**H. C. A. No. 250 of 2022**

1. *For orders on CMA No. 2309/2022.*
2. *For orders on office objection a/w. reply at 'A'.*
3. *For orders on CMA No. 2310/2022.*
4. *For hearing of main case*
  2. *For orders on CMA No. 2311/2022.*

**H. C. A. No. 251 of 2022**

1. *For orders on CMA No. 2312/2022.*
2. *For orders on office objection a/w. reply at 'A'.*
3. *For orders on CMA No. 2313/2022.*
4. *For hearing of main case*
5. *For orders on CMA No. 2314/2022.*

**10.08.2022:**

Barrister Mujtaba Sohail Raja, advocate for the appellants.

Mr. Rehan Kiyani, advocate for the respondents.

## **O R D E R**

1. Granted.

2-5. Above High Court Appeals have been filed by the appellants, against three different orders dated 23.06.2022, 28.06.2022 & 30.06.2022 passed by the learned Single Judge in Suit Nos.985 of 2022, 1201 of 2022 & 1223 of 2022 filed by the respondents seeking declaration to the effect that the respondents may be declared as members of Firdous Cooperative Housing Society Ltd. Karachi, therefore, entitled to participate in the forthcoming elections of the Society, whereby, the Nazir

has been directed to consider all the evidence brought forward by the respondents and independently determine their eligibility criteria for becoming members of the society and submit a list.

Learned counsel for the appellants submits that the impugned orders passed by the learned Single Judge in the above Suits are contrary to the spirit of the order already passed by the Divisional Bench of this Court in Const. Petition No.D-7789/2015 along with C.P.Nos.D-5462/2016 & 6784/2017, wherein, Nazir was directed to conduct elections of the Society pursuant to directions of this Court as contained in order dated 31.03.2021 as per the list of 1483 members duly verified by the Registrar, Cooperative Societies, Karachi, and submit compliance as per proposal 'B' of the report dated 02.06.2022. According to learned counsel for the appellants, Nazir was mandated to hold elections as per verified list of 1483 members, however, the respondents in order to circumvent the aforesaid directions of the Divisional Bench of this Court filed three different suits seeking declaration to the aforesaid effect and have obtained ad-interim orders, whereby, Nazir has been directed to verify the claim of the respondents independently, which was not the mandate given to the Nazir by the Divisional Bench of this Court in the aforesaid order. It has been prayed that the impugned order to the aforesaid effect may be set-aside and Nazir may be directed to hold the elections of the society as per the list of members duly verified by the Registrar, Cooperative Societies, Karachi.

Conversely, Mr. Rehan Kiyani, advocate, present in Court on notice under Order 43, waives notice, undertakes to file his Vakalatnama on behalf of respondents and requests for time to file reply/objections to the instant High Court Appeals. However, it has been contended by the learned counsel for the respondents that the order passed by the Divisional Bench of this Court on 03.06.2022 in Const. Petition No.D-7789/2015 along with C.P.Nos.D-5462/2016 & 6784/2017, also allowed the respondents to approach the relevant forum by filing proceeding for the purposes of determination of their claim being the lawful members of

the Society as per by-laws of the Society and in terms of the provisions of Cooperative Societies Act, therefore, the respondents, who are the lawful members of the Society filed three (03) Suits before the learned Single Judge of this Court seeking a declaration to the aforesaid effect, therefore, the impugned order(s) does not suffer from any factual error or legal infirmity. It has been further contended by the learned counsel for the respondents that the respondents will be satisfied if the impugned order(s) is modified to the extent that Nazir may be directed to ascertain the record of the Society as well as the record maintained by the Registrar, Cooperative Societies to this effect and thereafter decide the fate of the respondents with regard to their membership and right to participate in the elections of the Society in accordance with law.

Learned counsel for the appellants submits that appellants will be filing objection on injunction application as well as to the maintainability of the Suit, however, does not oppose if instant High Court Appeal(s) may be disposed of in the terms as proposed by the learned counsel for the respondents.

Accordingly, by consent, instant High Court Appeals are disposed of along with listed applications with the direction to the Nazir to verify the record of the members of the Society as well as the record of the Registrar, Cooperative Societies, Karachi, relating to the membership of the respondents, preferably, within a period of fifteen (15) days from the date of this order and submit report before the learned Single Judge for further orders in accordance with law.

***JUDGE***

***JUDGE***