

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

**R.A No.107 of 1989**

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Order with signature of Judge(s)

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Disposed of matter

1. For hearing of CMA No.9056/2023
2. For hearing of CMA No.4181/2023
3. For hearing of CMA No.2052/2023
4. For hearing of CMA No.2053/2023
5. For hearing of CMA No.6279/2022
6. For hearing of CMA No.324/2022
7. For hearing of CMA No.5394/2020

**21.02.2024**

Ms. Nousheen Khan Tajjammul, Advocate for the respondents  
Mr. Muhammad Hanif Faisal Alam, Advocate for intervener  
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Mr. Faisal Shahzad, Advocate files Vakalatnama on behalf of Applicant No.1, which is taken on record. This Court on 22.12.2023 passed the following order:-

- “1. Urgency granted.
2. Through filing instant application, learned counsel for the Respondents prays for impleading the names of legal heirs of deceased Syed Aslam Ali as Respondents. Alongwith instant application, copies of death certificate and FRC are enclosed. Accordingly, instant application is allowed. Learned counsel for the Applicants is directed to file Amended Title by impleading the names of legal heirs of deceased mentioned in CMA No.10159/2023.
3. Learned counsel for Respondents has filed present application under Section 151 CPC (CMA No.9056/2023) praying therein that all the legal heirs of deceased Syed Aslam Ali except one namely Muhammad Ali had appeared before this Court on 23.11.2023, whereby, they all raised no objection if Auction Purchaser namely Syed Fahad Ali may be allowed to deposit bid amount of Rs.15,000,0000/- out of which, the Auction Purchaser has already deposited Rs.120,00,000/- as mentioned in the order dated 05.04.2022. The Respondents are allowed to deposit the same before the Nazir of this Court, however, the Auction Purchaser is not allowed to release the amount. One of the legal heirs namely Muhammad Ali is not present and he did not raise objection/no objection to deposit the auction amount of Rs.15,000,0000/-, however, he may appear before the Nazir of this Court in order to match the bid amount, if he wants so.

Adjourned to a date in office.”

Perusal of the above order suggests that relying on the Nazir report dated 23.02.2022 Syed Fahad Ali turned out to be the highest bidder of the property by depositing 10% earnest money of Rs.12,000,000/- through pay order No.09383232 dated 08.03.2022 drawn

on Bank Al Habib Limited Steel Market Branch in favour of the Nazir of this Court, which price was objected by the legal heirs hence he enhanced it to the tune of Rs.150,000,000/-, which price was intended to be matched by one of legal heirs namely Muhammad Ali, on which account the matter was remanded back to the Nazir of this Court so that the said individual Muhammad Ali could match the highest bid. Nazir's further report dated 02.02.2024 suggests that Muhammad Ali through his son Syed Aun Ali offered the highest bid of Rs.150,500,000/- in respect of property i.e. Residential House bearing Plot No.107-H, Block No.2, PECH Society, Karachi, admeasuring 300 square yards and has deposited advance of 25% being Rs.37,625,000/- through pay order No.3135555 dated 24.01.2024 drawn on Faysal Bank Khayaban-e-Shahbaz, Karachi Branch in the name of Nazir of this Court.

None present in Court objects for confirmation of the said sale in favour of Syed Muhammad Ali in the sum of Rs.150,500,000/-.

Court has been informed that the instant documents are lying with the Nazir and Nazir be directed to further sale in favour of Syed Muhammad Ali after having the balance sale consideration (minus his legal share) submitted with the latter. Nazir upon receiving the balance sale consideration to retain the sums and invest in some government profit bearing scheme.

Directions are sought that the said individual Muhammad Ali be directed to deposit the balance sale consideration within 30 days from the date of this order deducting his share. Ordered accordingly.

Through application CMA No.2052 of 2023 a request is made that the sums deposited by the previous bidder Syed Fahad Ali, which are lying with the Nazir of this Court and probably which were invested in some profitable scheme be returned alongwith interest, if any, to his nominee Shamim Ahmed holding CNIC No.42201-1165601-9, who in fact made payment of Rs.12,000,000/-. Syed Fahad Ali is present alongwith the counsel and raised no objection if the said sums are paid to Shamim Ahmed alongwith interest accrued thereon (if applicable). Ordered accordingly.

Both the counsel submit that having granted this request all the pending applications become infructuous and they are not pressing the same. These applications are accordingly dismissed as not pressed upon becoming infructuous.

To recapitulate, upon the highest bidder Syed Muhammad Ali making payment of the balance sale consideration minus his share within 30 days, the Nazir having deposited the same in some government profit bearing security for further orders for onwards distribution amongst the legal heirs and to file a compliance report as upon payment having been received within 30 days, and on the nearest date thereafter to have the sale of the above referred property effected in the name of Syed Muhammad Ali or his nominee. As far as withdrawal of the sums paid by Syed Fahad Ali through Shamim Ahmed are concerned, the same funds of Rs.12 million alongwith interest (if any) should be handed out to Mr. Shamim Ahmed.

Nazir's fee to be adjusted from the monies received.

JUDGE

B-K Soomro