

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

**Const. Petition No. D-5200 of 2023**  
Syed Muhammad Sabihul Haq  
Versus  
Syed Muhammad Rafiq Ishaq & others

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

Priority

1. For order on CMA No. 1851/2024
2. For order on office objection
3. For hearing of CMA No. 23851/2023
4. For hearing of Main Case

**Dated 29.01.2024**

Mr. Adnan Ahmed, Advocate for the Petitioners

M/s. Muhammad Fahim Zia, Sawan Meghwar and Pervaiz Ahmed Bhatti, Advocates for the Respondent No.1

Mr. Naveed Ahmed, Advocate for the Respondent No.2

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**Muhammad Shafi Siddiqui, J.-** A suit for Declaration, Partition and Permanent Injunction was filed by one of the brothers Syed Muhammad Rafiq Ishaq. The subject property was owned by five individuals i.e. four sons and a mother. Mother, to the extent of her share, claimed to have gifted the subject property to one of the above son, Syed Muhammad Rafiq Ishaq, the Plaintiff, whereas, the other son Syed Muhammad Sabihul Haq claimed to have acquired a share of his brother Syed Muhammad Aziz Ishaq, in the property by virtue of a Sale Deed dated 5.12.1997 available at page 97. The sisters are nowhere shown as co-owners or co-sharer in the property but arrayed in the suit when preliminary decree was passed.

2. It seems that the mother/a co-owner in the property, has gifted her share to one of the son and the other has purchased from another, his share. The present controversy revolves around the auction proceedings in view of

a preliminary decree and shareholding, which is not disputed by any one in attendance today. No one has challenged the oral gift duly executed by the mother though not registered, which gift deed is claimed to have been verified by Mr. Adnan Ahmed, learned counsel appearing for the Petitioner.

3. While the above shareholding is maintained the auction proceedings be conducted and consequently this petition is accordingly disposed of along with listed applications as agreed by counsel in attendance.

*JUDGE*

*JUDGE*

Amjad PS