

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

H.C.A. No.461 of 2023

Fatehyab Ali Khan & another
Versus
Shamshad Ali Khan & others

Date	Order with signature of Judge
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1. For orders on CMA 5914/23
2. For hearing of main case
3. For orders on CMA 5915/23

Dated: 02.05.2024

Mr. Ishrat Ghazali for appellants.

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Learned counsel has raised two questions i.e. (i) that a counsel who is also a party in suit cannot appear as a witness in witness box and (ii) that she cannot represent Rabia Bashir (plaintiff No.2) after her death though previously appearing as her counsel.

We have heard the learned counsel on these two points. At the very outset the requisite rule, as mentioned in ground No.19 of the memo of appeal, does not provide an absolute bar as far as appearance of counsel as a witness is concerned. He seriously did not press this ground then. Similarly the second argument of the learned counsel that after demise of Rabia Bashir/plaintiff No.2 she [respondent No.1(i)] would not be able to represent her, does not carry any other view, however if legal heirs of said Rabia Bashir would engage her she would represent said Rabia Bashir through legal heirs but not otherwise. The appeal as such would not lie and the same being misconceived is dismissed along with listed applications.

Judge

Judge