

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
HCA NO. 286 / 2024

Date

Order with signature of Judge

HEARING / PRIORITY.

- 1) For orders on office objection.
- 2) For hearing of on Misc. No. 1744/2024.
- 3) For hearing of main case.
- 4) For hearing of on Misc. No. 1746/2024.

28.11.2024.

Mr. Haider Waheed, Advocate for Appellant

None is present on behalf of the Respondent. Pursuant to order passed on 14.11.2024 bailiff / office report reflect that notice stands duly served upon Respondent No. 1 through electronic modes. Service is held good.

Through this High Court Appeal, the Appellant has impugned order dated 01.11.2023 passed in Suit No. 1794 of 2023 filed by Respondent No. 1. The said order reads as under:-

- “1. Urgency granted.
2. Shall be complied with.
3. Since this is Suit for Administration, left by deceased Rasheedullah Yaqoob s/o Muhammad Yaqoob Khan. Accordingly, office shall prepare preliminary decree after probe on admitted properties.”

On perusal of the said order, it appears that without notice and any reasoning therein, a preliminary decree has been passed on the ground that since it is a Suit for Administration of the estate left by deceased Rasheedullah Yaqoob S/o Muhammad Yaqoob Khan; hence a decree ought to be passed. We are afraid such course of action adopted by the learned Single Judge cannot be appreciated inasmuch as it is the case of the Appellant that the property claimed by the Appellant was not in the name of deceased. Even otherwise, it is not mandatory to pass a preliminary decree in an administration suit without notice and hearing the

other side when the parties are contesting the ownership of the deceased.

In view of the above, the impugned order cannot be sustained; hence, stands set aside and the matter stands remanded to the learned Single Judge for proceeding further in accordance with law after notice to the Defendant in the said Suit.

Appeal stands disposed of in the above terms.

J U D G E

Arshad/

J U D G E