

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

Date	Order with signature of the Judge
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Present:

Mr. Justice Muhammad Iqbal Kalhoro.

Mr. Justice Muhammad Abdul Rehman.

HCA No.345 of 2023

Gul Bano	Appellant
	Vs.	
Shehnaz Bano & others	Respondents.

04.08.2025.

Ms. Uzma Rafiq advocate for appellant.

M/s Faryal Ishaque and S.K. Lodhi, advocate for respondents.

O R D E R

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MUHAMMAD IQBAL KALHORO J: Appellant filed a civil suit in 2016 for partition, mesne profits and permanent injunction in respect of a property bearing House No.A-323, Block-1, North Nazimabad, Karachi against respondents, who happened to be her siblings. The suit was decreed vide judgment dated 19.09.2022 and decree dated 31.10.2022 in the manner whereby defendants were directed to pay a sum of Rs.411,682.98 to the appellant/plaintiff as mesne profits as per her share. Appellant, however, filed an application bearing CMA No.17382/2022 for review of the said judgment stating that it was only her, who was entitled to mesne profits and no other legal heir as they were enjoying possession of the property. This application has been decided by the impugned order whereby the initial share of the appellant determined as 1/15th has been enhanced to 1/12th in view of the fact that two of the legal heirs namely Bilquees Bano and Abdul Jabbar had expired issueless.

2. As per impugned order the appellant has now been held entitled to a sum of Rs.514,603.72. It appears that appellant is still aggrieved and filed this appeal stating that in view of the judgment passed by the Supreme court in Civil petition for leave to appeal No.83-K/2014 dated 24.06.2014 appellant, being the only one out of other legal heirs out of possession of the subject property, is exclusively entitled to the mesne profits.

3. We have considered this point. It is pertinent to mention that learned Single Judge too has adverted to this point while passing impugned order. He has observed that since legal heirs have paid market value of the property in question, whether they are legal heirs or strangers does not make a difference, and they should enjoy respective fraction of benefit from the proceeds of the rental income too, hence they will continue to be beneficiaries. The whole emphasis of the appellant is over the point that since the defendants were in possession of the property, to the mesne profits decreed by the court, they would not be entitled. Notwithstanding in the given facts

when one of the legal heir has purchased the property and paid entire market value of the property to the legal heirs, mesne profits decreed by the court would be distributed among all legal heirs as per their share. This is irrespective of the question whether they all in possession of the property being co-owner thereof, at the first instance could have been held responsible for paying the mesne profits to the appellant for enjoying possession of the property. Therefore, we do not find any merit in this appeal and accordingly dismiss it alongwith pending applications.

The Appeal stands disposed of alongwith pending applications.

JUDGE

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