

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Suit No.692 of 2017

Date	Order with signature of Judge
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- 1.For orders on CMA No.15936/2017.
- 2.For orders on CMA No.15937/2017.
- 3.For orders on CMA No.15938/2017.

17.11.2017

Mr. Abdur Rahman, Advocate a/w
the Plaintiff Muhammad Rashid Mir.
Syed Daanish Ghazi, Advocate a/w
Defendant No.1 Mst. Asma Rashid and
Intervenors Muhammad Shabaz Mir,
Muhammad Saad Mir and Sana Mir.

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1. The urgent application moved by the counsel for the plaintiff is allowed.
2. This application has been moved under Order 1 Rule 10 CPC for impleading Shabaz Mir, Muhammad Saad Mir and Sana Mir. All sons and daughter of plaintiff and defendant No.1 are present in court with their counsel.
3. The plaintiff and defendant No.1 have also filed an application under Order 23 Rule 3 CPC (CMA No.15938/2017) in which they have settled some modalities to resolve their dispute. The plaintiff and defendant No.1 both are husband and wife. One suit for dissolution of marriage by way of Khula is also pending in the Family Court which has been filed by the defendant No.1 against the plaintiff but both learned

counsel of the plaintiff and the defendant No.1 submit that they have patched up their matter and the suit will be withdrawn. The plaintiff and defendant No.1 both have also confirmed this statement. The conveyance deed of House No.A-450, Block No.3, Gulshan-e-Iqbal, Karachi is in the name of the defendant No.1. She is also owner of house No.B-125, Architect Society, Block 8, Gulistan-e-Jauhar, Karachi. The plaintiff has filed this suit for the declaration that the defendant No.1 is the ostensible owner of these two properties. Since they have resolved their dispute and patched the matter, therefore, the compromise application has been filed. In the compromise application they agreed that the house No.A-450, Block No.3, Gulshan-e-Iqbal, Karachi will be gifted by the defendant No.1 in favour of the intervenors and so far as the remaining properties are concerned, the plaintiff has no claim. Muhammad Shabaz Mir and Muhammad Saad Mir both are major but Sana Mir, the daughter of plaintiff and defendant No.1 is minor and on whose behalf the defendant No.1 as guardian *ad litem* has signed the compromise application. The compromise application has also been signed by the plaintiff and defendant No.1, their counsel and the intervenors, therefore, the intervenors are impleaded as defendant Nos.4, 5 and 6. Since the plaintiff and defendant No.1 both are natural guardians of Sana Mir, therefore, the defendant No.1 is appointed guardian *ad litem* of Sana Mir who has

otherwise no interest adverse to the minor. The counsel for the plaintiff has submitted the amended title which is taken on record. Since in the compromise application some role of the Nazir has been assigned that in case of non-execution of declaration of oral gift by the defendant No.1 in favour of her children, the Nazir will execute the document. At this juncture, the court wanted to clarify that since the defendant No.1 undertakes that she will execute the gift deed within one year, therefore, the clause (iv) of the compromise shall be deleted by the office with red ink, however, in case of non-compliance of undertaking, the plaintiff may file the execution application. Now there is no impediment in recording of this compromise, therefore, this application is allowed and suit is decreed in the above terms. So far as the defendant Nos.2 and 3 are concerned, this suit against them is dismissed as not pressed. Pending application is also disposed of.

Judge

Asif