

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

H.C.A. No. 145 of 2014

DATE	ORDER WITH SIGNATURE OF JUDGES
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**Present**

**Mr. Justice Muhammad Ali Mazhar.**  
**Mr. Justice Adnan Iqbal Chaudhry.**

Mst. Kalsoom Akhtar  
and others

.....

Appellants

Versus

Mumtaz Yasin and others

.....

Respondents

Hearing (Priority) Case.

1. For orders on Office Objection/Reply at "A".
2. For hearing of Main Case.
3. For hearing of CMA No. 1427 of 2014.

**Date of hearing 05.09.2018.**

Mr. Muhammad Muzaffar, Advocate for the Appellants.

Mr. Muhammad Tamaz Khan, Advocate for the Respondents.

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**Muhammad Ali Mazhar, J:** The Appellants have challenged the order dated 21.03.2014 passed by the learned single Judge in Civil Suit No. 274 of 2010, which reads as under: –

*“This is a suit for administration, Official Assignee is appointed Administrator in terms of Order XX Rule 13 CPC to make enquiry regarding status of the property, take accounts from all the Defendants and issue preliminary decree”.*

2. Learned counsel for the Appellants argued that the deceased Abdul Ghafoor expired on 05.01.2009. The Appellant No. 1 is his widow whereas the Appellants No. 2 to 4 and Respondents No. 1 to 4 are other legal heirs of deceased Abdul Ghafoor. The Respondent No. 1 filed a Suit No. 274 of 2010 for administration, declaration, appointment of receiver, sale of assets, distribution of proceeds,

permanent injunction and rendition of account in relation to the properties left by the deceased and in Paragraph No. 2 of the plaint he has also mentioned the description of different properties allegedly owned by deceased Abdul Ghafoor. On 21.03.2014 the impugned order was passed whereby the Official Assignee was appointed as Administrator and preliminary decree was passed. The learned counsel for the Appellants argued that some of the properties are owned by the Appellants which were wrongly considered as part of the estate of the deceased by the learned single Judge and according to him the preliminary decree could not have been passed on those properties.

3. We have gone through the impugned order that was passed pursuant to Order XX Rule 13 CPC. In the suit for administration of the property, the right course of action is to pass preliminary decree for conducting enquiry so that the matter may be expedited and the decision may be rendered to an early date rather than retaining the case as a long cause which will take number of years to decide. The format of the preliminary decree is already provided under the C.P.C. which has to be followed and the Administrator may make necessary enquiries on various aspects. He has also right and an authority to enquire what immovable property the deceased was seized of or entitled to at the time of his death. The Administrator may also be authorized to make an enquiry as to what are the encumbrances, if any, affecting the immovable property of the deceased or any part thereof. He can also ask for accounts. The Appellants may appear before the Official Assignee and submit all

relevant documents, if any, in their names to prove their title of the properties concerned and during enquiry it is the responsibility of the Administrator to go through all the documents and submit the proper reference in the court after providing an ample opportunity to the Claimants/Appellants whether the property is being claimed by their own right or it was a part of the estate of the deceased at the time of his death. The Administrator may also record evidence for reaching just and proper conclusion by this court. Learned counsel for the Respondents has argued that all these issues may be taken up by the learned Official Assignee and after making necessary enquiries, he may submit the report in the court. As a result of our discussion, the appeal is disposed of accordingly alongwith pending application(s). The learned Official Assignee is directed to expedite and submit the progress report/reference before the learned single Judge within four (04) months.

**JUDGE**

**JUDGE**

*SHUIBAN/PA\**