

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

IInd Appeal No.130 of 2018

| Date | Order with signature of Judge |
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Fresh case

1. For orders on CMA No.9097/2018 (U/A)
2. For orders on office objection as at "A"
3. For orders on CMA No.9098/2018 (Exemption)
4. For hearing of main case.
5. For orders on CMA No.9099/2018 (Stay)

17.10.2018

M/s Anwar Ahmed and Farooq Akhtar advocates for appellant.

1. Urgency is granted.

2-5. This IInd Appeal is filed against the Judgment and Decree dated 15.9.2018 passed by the District and Sessions Judge Karachi Central in Civil Appeal No.16/2018 whereby order of dismissal of suit No.424/2015 by the Court of XIIth Senior Civil Judge Karachi Central has been maintained. Irrespective of the fact that several grounds have been taken by the learned counsel for the appellant challenging the registered document, the status of the appellant himself is such that he has no title to hold possession of the property bearing No.593, Sector No.9, admeasuring 120 sq. yards situated at North Karachi (the suit property). He claimed that he has been living in the suit premises alongwith respondent No.1 who happens to be his real sister, who by misrepresentation has obtained title of the suit premises. The two Courts below have already decided the factual controversy against the appellant and the appellant himself has never claimed any title in the premises in question. The respondent as title documents has a registered power of attorney executed by the undisputed owner in her favour. In presence of registered documents

unless it is being disputed by the executant himself, a stranger of the property and the documents cannot challenge the same merely to perpetuate his possession over the property against the wishes of the person who has acquired the property by registered document. The anxiety of the appellant is that execution No.01/2018 has been filed by Respondent for taking over possession of the suit property and 24 hours' notice has been given to the appellant. These 24 hours are expiring today, therefore, there is every likelihood that in the event of not handing over possession of the suit property through the bailiff, the police will take action against the appellant for removing him from the suit property.

In the circumstances, learned counsel says that at least 90 days' time may be granted and the execution proceedings may be stayed for 90 days so that the appellant may make an alternate arrangement for shifting the household articles alongwith family in a peaceful and respectable way. Appellant No.3 and attorney of appellant No.2 has filed statement giving undertaking that without any delay they will vacate the suit property within 90 days. The undertaking is taken on record.

In view of the above, the Execution No.01/2018 is stayed for 90 days from today and if the premises are not vacated, the executing Court on expiry of 90 days i.e **15.01.2019** will be free to issue writ of possession alongwith police aid for vacating the premises in question from the appellant.

This IInd Appeal is disposed of in the above terms alongwith listed applications.

JUDGE