

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

**Suit No. 690 of 2003**  
alongwith  
Suit No.827 of 2005

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Order with signature of Judge(s)

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- For examination of parties/settlement of issues

**10.08.2021**

Defendant No.1 Muhammad Aftab is present in person

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None is present on behalf of plaintiffs. Defendant No.1 Muhammad Aftab is present in person and states that despite Court's orders that the amended title to reflect that all the deceased parties be removed or represented through legal heirs have not been complied with, to the extent that plaintiff No.2 Iqbal Surya has since expired but his name still appears in the amended title. Not only so, he also points out that the addresses given for the remaining plaintiffs are not up-to-date, as plaintiff No.1 Muhammad Anwar Subwani is residing in Canada. Let fresh title be filed with accurate details of the surviving or duly represented parties.

He also draws Court's attention to the order dated 08.12.2005 where counsels were directed to provide list of tenants; showing their names, rate of rent and date from which the rent has not been paid, and the said list was to be submitted to the Nazir, who was to issue notices to all the tenants to deposit the rent with the Nazir forthwith. He also points out that from order dated 25.05.2006, it could be observed that such a list was submitted by the defendants however challenged by the plaintiffs. It was also pointed out that while Nazir visited the Mowloo Juma Trust building, another building in Aram Bagh bearing Building No.2 RB-6/93 which was also subject matter of the present proceedings but was never visited by the Nazir. With the mutual consent on that day, Nazir was directed to inspect building No.1 i.e. Mowloo Juma Trust building in

Saddar and submit his report with regards to the tenants occupying various portions of the building and their rate of rents and to whom the rents were being paid. One of the counsel, Mr. M.G. Dastagir however requested the Court that till the submission of the report by the Nazir, operation of the order dated 08.12.2005 with regards deposit of the rent with the Nazir not to be acted upon. It could be observed that in the last part of the order such a request found favours of the Court and deposit of rents to the Nazir was suspended till furnishing of the report by the Nazir. Incidentally, it may be observed that, Nazir did submit his report on 28.11.2006, which was taken on record by this Court's order dated 12.02.2007. Defendant present in person also states that since that date more than a decade ago, compliance of the orders dated 08.12.2005 and 25.05.2006 as to deposit of the rent with the Nazir of this Court contingent to the Nazir having furnished his report has not been complied with, notwithstanding that a detailed report was submitted by the Nazir and taken on record by this Court. Defendant next contends that both the buildings are "Trust" properties established for the welfare of poor widows, orphan and destitute persons belonging to Katchi Memon community of Karachi. Serious allegations are made that the plaintiffs are pocketing and usurping rents as well as the money generated through exchange of tenancy notwithstanding that Court's order restraining creation of any third party interest is still in force. Perusal of the diary sheet reflects that after these orders in the year 2007 no meaningful progress has been made and subsequent orders are only with regard to appearances, adjournments, filing of applications, or similar matters.

In the given circumstances, Nazir is directed to immediately send notices to the plaintiffs with regards collection of the rents and transfer of tenancy fees collected by them since the year 2007 as well as issue notices to all the tenants in both the buildings. Court has been informed that the Mowloo Juma Trust building has 19 tenants and the other building

bearing RB-6/93 has only one tenant. Nazir to determine as to whom these tenants have been paying rents since the year 2007 as well as immediately take over moneys present with the plaintiffs in these two head of accounts i.e. rentals and other income derived out of the tenancy transfer arrangements in these two buildings and file report to this Court. Nazir to ensure that all the tenants from these two buildings to deposit rents with the Nazir only and monthly report without fail be submitted by the Nazir to the Court.

To come up after fifteen days with notice to all concerned.

JUDGE

Barkat Ali, PA