

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Suit No. 950 of 2006
JM No. 49 of 2013

Order with signature of Judge(s)

1. For hearing of CMA No.1174/2022
2. For hearing of CMA No.231/2021
3. For hearing of CMA No.1175/2022
4. For orders on Official Assignee Reference No.05/2016
5. For non-prosecution on CMA No.11864/2016
6. For non-prosecution on CMA No.11865/2016

16.08.2022

Mr. Arshad Ali Siddiqui, Advocate for the plaintiff
Mr. Zahid Hussain, Advocate for the defendant

1-4. Order dated 28.08.2007 passed in Suit No.950 of 2006 listed ten properties belonging to the deceased parents Muhammad Suleman and Mst. Sugra Bi and with the consent of the parties appointed Official Assignee as Receiver while issuing a preliminary decree. It seems that after passing of the order, property at Sr.6 being Property No.5/21 became subject matter of JM No.49 of 2013 moved by Al-Haj Ameenuddin stating that the said property did not belong to the deceased couple. In order to ascertain factual controversy, Official Assignee was directed to file report vide order dated 04.11.2015, which report came in the form of Reference bearing No.01 of 2016 concluding with the findings that the property in question was *in fact* leased out to Al-Haj Ameenuddin by KMC on 28.10.2014 having the said shop purchased through a sale deed from Mst. Saira Bano on 22.12.2008. Once these findings were given by the Official Assignee, objection dated 17.02.2016 came on the report from Muhammad Ismail, one of the legal heirs in consideration thereof, when none was appearing on behalf of the respondents in JM No.49 of 2013, vide order dated 11.12.2020 operation of the preliminary decree was suspended till the next date of hearing.

After arguing the matter at some length, learned counsel who has moved the instant JM Mr. Zahid Hussain concedes to the view that since the dispute is only with regard to the property bearing No.5/121, which is listed at Sr.6 belonging or not to the deceased couple, therefore gives no objection if the preliminary decree be executed in respect of all other properties except Property at Sr.6 and the fate of the JM (dealing with the said property) be decided solely on the material available on record, for which a short date be given.

In the given circumstances, this Court's order dated 11.12.2020 is amended to the extent that the operation of the preliminary decree, which was suspended in toto is amended to the extent that such suspension would operate only in respect of property bearing No.5/121 (Sr. No.6), whereas, rest of the properties (i.e. 1 to 5 and 7 to 10) be executed through the preliminary decree. In the given circumstances, let the matter come up on **05.09.2022**, however, the preliminary decree is resurrected in respect of all properties with exception of property listed at Sr.6 bearing No.5/121. Let a report be filed from the Official Assignee.

JUDGE