

IN THE HIGH COURT OF SINDH AT KARACHI

HCA No.88 of 2018

Present:

Mr. Justice Irfan Saadat Khan

Mr. Justice Fahim Ahmed Siddiqui

JUDGMENT

Dates of hearing: 28.10.2019 and 27.11.2019.

Appellants: Mst. Rabia Bibi and others through attorney, namely Adil Shamsi.

Respondents: Syed Ahmed Shah Shamsi and others through Mr. Shafiq Ahmed, advocate.

Irfan Saadat Khan, J.: This High Court Appeal (HCA) has been filed impugning the order dated 08.03.2018 whereby the applications bearing CMA Nos.11397 of 2017 and 548 of 2018, filed under Section 151 and Section 152 CPC respectively by the present appellants were dismissed.

Adil Shamsi is present for himself and on behalf of other appellants, being their attorney, stated that the impugned order is not in accordance with law as the learned Single Judge has not considered the aspect that there was some numerical error made in the description of the property which needs correction. He, therefore, requested that the matter may be remanded to the learned Single Judge for reconsidering the applications and thereafter deciding the same afresh in accordance with law after granting opportunity of hearing to the parties.

Mr. Shafiq Ahmed Advocate is present on behalf of the respondents and has opposed the instant HCA and stated that no mistake is apparent as the said applications were filed with mala fide intention just to defeat the process of distribution of assets left by the deceased which, according to him, is already

underway apart from some restrictions imposed in the connected HCA bearing No.81 of 2018 vide order dated 05.09.2018. He prayed that this HCA being meritless may be dismissed.

We have heard the appellant as well as the counsel for the respondent and have perused the record.

Perusal of the record reveals that the applications were filed for correction of prayer clauses and the body of the plaint for which, in our view, the appellant should have moved an application under Order VI Rule 16 CPC or Order VI Rule 17 CPC, as the case may, but filing of the applications under Sections 151 and 152 of CPC after judgment and decree appears to be wholly misconceived. Before us also the appellant, who is appearing in person, has failed to demonstrate that what is the error or mistake made in the orders passed by the learned Single Judge which requires correction or rectification. No such mistake has been pointed by the appellant and thus the instant HCA is found to be bereft of any merit and is, accordingly, dismissed along with the listed/pending application(s).

JUDGE

JUDGE