ORDER SHEET IN THE HIGH COURT OF SINDH AT KARACHI

SMA NO.27/2004

Date	Order with signature of Judge

- 1. For hearing of CMA No.3175/2021 (Application under section 151 CPC).
- 2. For hearing of CMA No.1166/2020
- 3. For hearing of CMA No.581/2017
- 4. For hearing of CMA No.582/2017
- 5. For hearing of CMA No.1308/2017
- 6. For hearing of CMA No.1227/2015
- 7. For hearing of CMA No.521/2018

07.12.2021

Mr. Ghulam Mujtaba Phul advocate for legal heirs of deceased Ghulam Qasim. Mr. Muhammad Yasin Azad advocate for objector. Ms. Sidra holding brief for Mr. Irfan Ali Halepota advocate.

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CMA No.3175/2021: Allowed.

CMA No.1166/2020: Notice for 21.12.2021.

SALAHUDDIN PANHWAR, J: The agony and pain floating on surface of the instant matter not only shocked me but raises number of questions that how difficult it is to have **'earned** *right/entitlement'*?. The Paragraph No.5 of order dated 03.05.2016 is that :-

> "The petition already stood allowed vide order dated 19.04.2004 but since no 'letters of Administration' is issued hence keeping in view the series of murder (s) of number of sharers; attempts of abduction of present applicant showing his incapacity to access in this Court or within territory of Punjab, I find it in all fairness, equity and justice to appoint Nazir of this Court as 'administrator' for purpose of collection/ recovery of properties of deceased and distribution of amount amongst legal entitled persons. Since, prima facie it appears that a risk is involved in personal movement for recovery/ collection of properties hence the Nazir of this Court shall write to Commissioner Gujranwala to take over the control of properties, within its jurisdiction, within capacity of Court of Ward Act but after resorting to legal course, provided by Courts of Wards Act itself as

the Court of Wards Act also provides remedy for those who themselves cannot maintain/ manage their properties. <u>The Nazir shall also be competent to call</u> for market value and dispose of properties, as per inventory of locker, after verification."

2. By that order Commissioner, Gujranwala, was directed to take over the properties as mentioned under the Court of Wards Act and regulate the same as estate left by deceased. It has also come on record that applicant was in court when he preferred application with apprehension that he would be murdered as on the issue of subject matter property, already three murders have been committed.

3. Learned counsel for applicant contends that Ghulam Qasim, applicant, has also been murdered. This is very sad case and state of affairs reflect nothing but sorrow and failure *least* negligence on part of the Administrative authorities in not assuring true compliance/co-operation so as to place 'earned right / entitlement' into 'rightful hands'. The referred order is dated 03.05.2016 yet there has come no compliance report regarding property to have been secured, as was ordered. I find no ways but to involve the highest authorities with hope that they shall ensure quarter concerned to make compliance without any further delay of single day even because the delay resulting into loss of valuable lives. Accordingly, order dated 03.05.2016 as well present order shall be communicated to the Chief Secretary Province of Punjab and Commissioner Gujranwala. The commissioner shall submit report with regard to steps taken under the Court of Wards Act and such report shall be submitted before this court while the Chief Secretary Province of Punjab, too, shall ensure compliance by making such report to this Court.

4. At this juncture learned counsel or applicant contends that legal heirs of petitioner and legal heirs of applicant who was murdered are being deprived of these properties and they are also apprehending that they will be killed at the hands of same culprits. Counsel for objector present contends that objector has filed suit for specific performance of contract which is pending within the Province of Punjab, however he is ready to pay market value to the legal heirs.

5. Accordingly applicant's counsel would be at liberty to submit market value assessed by any authentic quarter concerned. Besides Commissioner Gujranwala shall also submit market value of that property to be assessed by concerned officer which should be fair and based on substance.

6. At this juncture judicial propriety demands notice to Attorney General for Pakistan and Ministry of Human Rights so as to assist in getting the apprehension of the deserved redressed through any *mode* or *manner* which could ensure deserved to receive due without any further delay. Office shall communicate order dated 03.05.2016 and this order to all concerned for compliance.

JUDGE

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