

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

J.C.M. No.01 of 1989
J.C.M. No.74 of 1989

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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1. For hearing of CMA No.47/1992.
2. For hearing of Enquiry Report dated 13.05.2006.
3. For hearing of CMA No.462/2006.
4. For hearing of CMA No.230/2010.
5. For hearing of CMA No.231/2010.
6. For hearing of CMA No.198/2013.
7. For hearing of CMA No.104/2013.
8. For hearing of Official Assignee's Reference No.137/2018.
9. For hearing of Official Assignee's Reference No.138/2018.
10. For hearing of CMA No.220/2018.
11. For orders on CMA No.268/2018.
12. For hearing of Official Assignee's Reference No.142/2020.
13. For orders on Official Assignee's Reference No.144/2020.
14. For hearing of CMA No.243/2020.
15. For hearing of CMA No.244/2020.
16. For orders on Official Assignee's Reference No.147/2021.
17. For orders on Official Assignee's Reference No.148/2021.
18. For orders as to Non-Prosecution on CMA No.343/2021.
19. For hearing of CMA No.80/2022.
20. For orders on CMA No.125/2022.
21. For orders on CMA No.265/2022.
22. For orders on CMA No.951/2022.
23. For orders on Official Assignee's Reference No.152/2022.
24. For orders on Official Assignee's Reference No.155/2022.
25. For orders on Official Assignee's Reference No.158/2022.
26. For orders on Official Assignee's Reference No.159/2022.

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Dated 07.03.2023

Mr. Muhammad Umar Lakhani, Advocate.
Dr. Ch. Waseem Iqbal, Official Assignee.
Mr. Abdul Shakoor, Advocate.
Mr. Zayyad Khan Abbasi, Advocate.
Mr. Faheem Zia, Advocate.
Mr. Shahid Ali Ansari, Advocate.
Mr. Saif Sohail, Advocate.
Mr. Muhammad Tayyab, respondent No.3 present in person.

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Sr. Nos.4 and 5 CMAs No.230/2010 and 231/2010.

These two applications bearing CMAs No.230/2010 and 231/2010 at serial Nos.4 and 5 are taken up. These applications are in relation to the property which is also subject matter of two References that are References No.142/2020 and 152/2022.

Earlier by an order of this court dated 20.02.2009 the agricultural land described as land in village Papnaka, District

Gujranwala, Punjab was ordered to be sold. In pursuance of such order, some of the applicants, asserting their rights in the property, identified above, preferred applications that are CMAs No.230/2010 and 231/2010 under Section 12(2) CPC and under Order XXXIX Rule 1 and 2 CPC respectively. Both these applications are pending since 2010, today however no one is in attendance. These applicants are no one but close relatives/front men of the directors of the company. They have not agitated their grievances against the forfeiture of the entire land by NAB. Even today they are not in attendance to demonstrate as to what fraud was committed when the order dated 20.02.2009 was passed. It was considered to be a property of the company and all those applicants were in fact benamidars/ostensible owners being close relatives of the directors of the company and the property was purchased by the funds secured on the basis of investments made by different individuals/ investors whose claims are being preferred for dividends. The application at serial No.4 and 5 as such are dismissed in view of the above.

Sr. No.12- Official Assignee's References No.142/2020.

Learned Official Assignee seeks an order that the subject land now measures 2141 kanals and 3 marlas (267 acres in all) to be sold, as already ordered. The description of each portion of land is disclosed in para-12 of the Reference No.142/2020 which also disclosed the names of benamidars. They are no one but the ostensible owners claiming through and on behalf of the directors of the company. Even otherwise, the subject land has already been ordered to be sold by virtue of an order referred above and it was only an undertaking of the learned Official Assignee that he has not sold the property and has not exercised rights in pursuance of order dated 20.02.2009 on account of pendency of two applications which are now dismissed, as above.

Since the applications have been dismissed, there is no reason why the order dated 20.02.2009 be not implemented. Learned Official Assignee shall exercise rights as ordered earlier, referred above. Reference No.142/2020 is allowed as requested and prayed therein. Learned Official Assignee shall make efforts to expedite the issues and sale of the property be conducted at the earliest.

Sr. No.23- Official Assignee's Reference No.152/2022

In view of the above achieved objects, learned Official Assignee does not press Reference No.152/2022 for the time being.

Sr. No.25- Official Assignee's Reference No.158/2022

This Reference is in relation to the second dividend. The learned Official Assignee submits that he may be permitted to release the second dividend on the terms as ordered earlier and identified in the Reference No.158/2022.

This court was pleased to pass orders dated 21.11.2003 and 12.08.2004 on Official Assignee's Reference dated 12.11.2003 and Reference No.23/2004, which are reproduced as under:-

21.11.2003

2. Reference dated 12.11.2003 is disposed of in the following terms:-

i & ii The Official Assignee may accept Heirship Certificate from the investors issued by Gazetted Officers not below the rank of Grade-19 for payment of amount of Rs.50,000/- or thereabout.

iii. The Official Assignee is allowed to make payment to the natural guardians of minors claimants upto the amount of not exceeding Rs.50,000/-.

iv. It has been contended that some of the investors have no Bank Accounts, more particularly, investors have no such cases they may be given bearer cheques to the extent of amount not exceeding Rs.25,000/- and the bank may make payment on identification of the person named in the cheque.

12.08.2004

The Official Assignee has reported that during the process of distribution of amount amongst investors, he has come across that there are investors of remote places like NWFP, who will receive only few thousands on account of 25% of their investment money. They have no bank accounts and in order to receive cash amount from Official Assignee they will have to travel from distant places. In order to remove such hardship, Official Assignee will exercise his discretion for payment of Rs.15,000/- or thereabout to such investors who are out of this providence and have no Bank accounts by making cash payment to authorized persons of such investors on obtaining identity cards of such authorized persons.

It is almost 20 years of the passing of the order referred above and I am not inclined for the release of any amount exactly on same terms as far as cash is concerned as it could now be advanced through electronic modes also on CNIC based identification. Nonetheless, such transactions still has some loopholes. Cash release may now be replaced either by an affidavit of the recipient (being creditors or legal heirs) to be obtained through biometric process of our court, for evidence sake along with P.R bond of the recipient at the time of payment. This arrangement is only when payment through cross cheque/pay order is not possible or convenient. Similarly in place of Heirship certificate a FRC be taken into consideration.

Be fixed after three weeks.

JUDGE

Ayaz Gul