

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No.D-1332 of 2020

Naseem Bano
Versus
Mst. Noor Jehan and others

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Present:
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Omar Sial.

For Re-hearing.

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Dated 01.02.2024

Mr. Ramiz Naseem, Advocate for the petitioner.

Ms. Fareeha Anjum, Advocate for Respondents No.1, 2 & 5.

Ms. Irum Rasheed, Advocate for Respondent No.3.

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This petition is arising out of an order dated 07.12.2019 passed by the learned IVth Additional District Judge, Central Karachi in civil revision No.64/2019.

In a suit for Administration, it is claimed that final decree was passed on 20.07.2017 and the immovable property that is Residential House No.4/894, measuring 90 square yards, Liaquatabad, Karachi was put to auction. The record provides that the best offer after sale proclamation was placed before the Senior Civil Judge, seized of the matter, however, instead of accepting the offer, he directly called the objections. The objections could have been filed only when the highest bid in respect of the property would have been accepted but that was not done in the case and the court instead of accepting the bid, called the objections and thereafter confirmed the bid on 16.10.2019.

An application under Section-151 CPC was filed which was dismissed by the trial court on 21.09.2019, a detailed order was passed and findings were given. Against the said order revision

application No.64/2019 was filed, which was allowed by impugned order dated 07.12.2019.

The auction proceedings are governed within frame of Order-XXI Rule-83/84 CPC onward, which were not followed. Before the time for objections could be granted, the offer has to be accepted first. It also seems that the Judge has jumped to the confirmation before the acceptance of the bid and hence the time was never triggered. It was not a belated application otherwise, in the shape of objections as required under Order-XXI Rule-89/90 CPC, as the case may be, in view of above.

The revisional court rightly maintained that the auction proceedings flouted the scheme of Order-XXI CPC and hence no interference in this writ petition is required, as this is not a Court of appeal to upset the findings of facts. The petition as such is dismissed.

JUDGE

JUDGE

Ayaz Gul