

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI**

H.C.A. No.450 of 2024

Kumayl Khaleeli & another

Versus

Nooruddin B. Mavani & others

Date	Order with signature of Judge
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1. For orders on CMA 2735/24
2. For orders on office objection a/w reply as at "A"
3. For orders on CMA 2736/24
4. For hearing of main case.
5. For orders on CMA 2737/24

**Dated: 23.10.2024**

Qazi Umair Ali for appellants.

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Brief facts which led the appellant to file instant appeal are that the appellant being an auction purchaser purchased the subject property through court auction proceedings. The initial bid amount was deposited by the appellant on/or about 11.04.2022 followed by deposit of remaining sale consideration on 22.03.2023. The sale certificate in respect of the property was however issued on 29.06.2024 with physical possession.

The controversy, as is raised in these proceedings, is the profit that accrued on the amount deposited by the appellant. It is case of the appellant that he is entitled to the profit accrued from the date of deposit of the amount till the issuance of sale certificate as the delay caused in issuance of sale certificate/possession is not on his part but on the part of the respondents. Via impugned order the assertion of the appellant was declined and the profit was ordered to be distributed amongst the claimants in accordance with the Rules hence this appeal.

At the very outset learned counsel for the appellant was asked as to how the appellant/auction purchase who on one hand is allowed to

reap the fruits in terms of appreciation/increase in the value of the property can also be allowed to have the profit on the amount that he had deposited as sale consideration for the sole benefit of those entitled to it. He had no answer. Indeed, the equity demands that all the parties should be treated at par; it would not be justified that a purchaser is given both the fruit of the property and/or its increased value as well as profit on the sale consideration amount.

Furthermore, as to the plea that the delay was on the part of the respondents and not the appellant, perusal of record reveals that appellant was well aware of the fact that the title of the subject property was disputed and/or not clear as certain legal heirs have claim over it hence it had to pass a test for transferring/mutating in the names of the legal heirs/respondents so that it could be conveyed further. So in such a situation the appellant cannot take a plea that since it took a considerable time to get the property transferred in the name of the respondents, for further conveying to the appellant, he (appellant) be given the profit. In line with the same, learned Single Judge has observed:

*“As such the party had to be in the knowledge of the process. The universal principle especially available in the present sale and specially in Pakistan is that the property appreciates and money depreciates. The party purchasing the property from a Court auction is well aware that the purchase is different from normal proceedings as such no benefit in this regard can be provided as a cushion for any delay caused...”*

In view of above no indulgence is required to intervene in the impugned order and hence the appeal is dismissed along with listed applications.

**Chief Justice**

**Judge**