

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

H.C.A. No.489 of 2024

Gul Mohammad Jakharani
Versus
Muhammad Anwar Shafi & others

Date	Order with signature of Judge
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1. For orders on CMA 3081/24
2. For orders on office objection a/w reply as at "A"
3. For orders on CMA 3019/24
4. For hearing of main case.
- 5/ For orders on CMA 3020/24

Dated: 28.11.2024

Mr. Faizan Hussain Memon for appellant.

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This is an appeal arising out of an order dated 15.10.2024 passed by learned Single Judge whereby an application under section 151 CPC filed by the appellant seeking to dismiss/quash the plaint/suit, wherein the appellant has been arrayed as one of the defendants, was dismissed.

The appellant claims to be an allottee of the land by Board of Revenue as against claim of the respondent No.1 being plaintiff in the suit. The plaintiff has arrayed himself placed to be the original allottee through the attorney/sub-attorney. It is there case that after the demise of the sub-attorney his legal heirs have also been arrayed though they do not have a direct interest in the property. It seems that by virtue of the impugned order the interest is being claimed as if the Power of Attorney was for consideration and hence an agency coupled with interest is attempted to establish. Perusal of record reveals that all the questions raised in this regard i.e. as to the interest/title being claimed and denied are triable questions and the issues have already been framed and the questions as raised in the application, which was dismissed by

virtue of impugned order, are all triable. Furthermore, the plaint cannot be dismissed/quashed even under section 151 CPC as it requires trial of the issues raised before us and before the learned Single Judge.

In view of above, we are not inclined to interfere with the impugned order which is only tentative in nature and would not affect the trial in any manner in case parties opt to continue. This being the situation, the appeal merits no consideration and the same is accordingly dismissed in limine along with listed applications.

Chief Justice

Judge