IN THE HIGH COURT OF SINDH AT KARACHI

M.A. No.14 of 2012

Masood Siddiqui
Versus
Hyder Ali

Date of hearing: 06.12.2017

Appellant: Through Mr. Ali Asghar Buriro Advocate.

Respondents: Through Mr. Anwer Ahmed Advocate.

J U D G M E N T

Muhammad Shafi Siddiqui, J.- This Misc. Appeal has been filed by the appellant in respect of order dated 12.03.2012 passed on an application filed by the intervener/appellant in Succession Misc. Application bearing SMA No.302 of 2009.

It appears that there was a dispute of inheritance as it is contended by the appellant that respondent is a stranger and in fact not legal heir of the deceased and hence the SMA filed by him was objected to by the intervener/appellant. However while disposing of the application both the parties were directed to approach Civil Court for redress of their grievances by holding that the nature of the dispute is such that it could not be resolved summarily in a Succession Misc. Application.

Learned counsel for the respondent has pointed out that in fact there are two suits pending one being Suit No.1213 of 2012 filed by the intervener wherein question of inheritance is pending whereas the other suit filed by the alleged purchaser bearing Suit No.362 of 2014. In the former suit evidence has already been recorded and it is fixed for final arguments whereas in the other suit evidence is being recorded.

In the circumstances, I do not find any reason to interfere in the impugned order of III-Additional District Judge who on the basis of dispute as raised by the parties directed them to approach Civil Court for redress of their grievances as such dispute could only be resolved by recording of evidence. It is however observed that the trial Court while passing judgment in Suit No.1213 of 2012 shall not be influenced by any of the observations made by III-Additional District Judge while passing impugned order in SMA No.302 of 2009 and /or any observation made hereinabove. Order accordingly.

Instant M.A. is accordingly dismissed in the above terms along with pending application.

Judge

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

M.A. No. 14 of 2012

Date	**Order with signature of Judge**

Hearing/priority of case.

1. For hearing of CMA No. 1654 of 2012.
2. For hearing of main case.

30.10.2017

Mr. Ali Asghar Abro, advocate for the applicant.

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Pursuant to order dated 04.10.2017, notice has been issued to the respondent as well as to his counsel. Per bailiff report dated 30.10.2017, however, the house of the respondent was found closed.

Likewise, the office of the counsel for the respondent was also found closed, as such, notice could not be served upon the respondent and his counsel.

Be that as it may, let notice be repeated to the respondent through concerned SHO. Besides intimation notice to his counsel for **13.11.2017**.

JUDGE

*Qurban/PA** Hg of Priority case

1) For Hg of CMA No. 1654/2012
2) For Hg of main case

(Note issued)

13-11-2017

Mr. Ali Asghar Buriro for Appellant

Respondent Hyder Ali is present and request for adjournment as wife of his counsel is ill and hence he is not in attendance. Adjourned to 06-12-2017.

Judge

Hg/priority Case

1- For hg of CMA No. 1654/12 (u/o 39 Rule 1 & 2 CPC).

2- For hg of main Case.