

IN THE HIGH COURT OF SINDH AT KARACHI

H.C.A. 500 of 2024

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Muhammad Osman Ali Hadi

[Zeeshan Saleem & others V. Mst. Saima Javed & others]

Date of hearing : 11.04.2025
Date of decision : 11.04.2025
Appellants : Through M/s. Abid S. Zuberi & M. Nawaz Khan,
Advocates.
Respondent No.1 : Through M/s. Shahab Sarki, Alam Zaib & Zulfiar
Ali Langah, Advocates.
Respondent Nos.2-4 : Through M/s. Umair Usman & Shahmir Memon,
Advocates.
Respondent No.7 : Through Mr. Junaid Hussain Dahar, Advocate.

ORDER

Muhammad Osman Ali Hadi, J: The instant Appeal arises from Order dated 25.11.2024 (“**the Impugned Order**”) in Suit Nos. 597 of 2023 along with Suit 1522 & 2278 of 2021. The Appellants state that several suits are pending relating to properties belonging or having belonged to Mr. Saleem Zaki, who passed away on 06.11.2018. The said suits relate to internal disputes between his next of kin (i.e. the Appellants and Respondents).

2. Learned Counsel for the Appellants stated that whilst certain applications were fixed for hearing in Suit No. 597 of 2023 on 25.11.2024, the learned Single Judge passed the Impugned Order, which holds that no third-party interest was to be created in respect of the subject properties.

3. It is contention of the Appellants that in a previous suit wherein interim orders are already operating, the Respondents filed an application for seeking the same interim order in a subsequent suit (i.e. No. 597 of 2023) in which the Impugned Order has been passed. He stated the same is impermissible under law, and this was an attempt by the Respondents to defeat the previous interim order (obtained in the previous suit).

4. Learned Counsel for the Appellant further contended that the Impugned Order is affecting their running business, as much of their business concerns relate to construction and sale of properties, which has been halted by virtue of the Impugned Order.

5. Learned Counsel for the Appellant submitted that there are several properties which did not belong to the deceased, but they have now come under garb of 'subject properties' cited in the Impugned Order, which he submits has caused further undue problems for the Appellants. Learned Counsel finally stated that at the time of passing the Impugned Order, the Appellants were not even heard, and as such they also have been condemned unheard.

6. Conversely, learned Counsel for the Respondents has appeared and repelled the arguments put forth by the Appellants. Learned Counsel for the Respondents stated that all the suits should be heard and decided on their merits. He submitted the Respondents hold shares in the properties which are under dispute, and the Appellants are attempting to deprive the Respondents from the same. He further contended that Respondent No. 1 is being deprived of her legal rights of inheritance from her late father (the deceased). He also stated that the Respondents are open to listening to any reasonable settlement proposal by the Appellants. He concluded that as the suit and several applications (including the application from which the Impugned Order arises) are still pending, and let the matter(s) be decided by the Trial Court.

7. Learned Counsel for the Appellant rebutted the assertions made by the learned Counsel for Respondents, and stated that the matter was already resolved vide a previous Settlement Agreement dated 18.10.2018 and that all properties were distributed accordingly, and as such the Respondents no longer hold any such rights over the properties being claimed by the Appellants. He further stated the same was substantiated by a learned Division Bench of this Court.

8. The learned Counsels have referred to various documents relating to the current and past proceedings between the parties.

9. We have carefully considered all arguments put forth by the learned Counsels. While we find that the Appellants may be suffering due to the Impugned Order being a blanket-order in nature, i.e. covering all properties generically without validating those properties on which the Respondents have a claim, which may have restricted the Appellants' use of their own personal property, but at the same time we cannot ignore the claims of the Respondents who are claiming a right of inheritance.

10. As the applications and the suits still remain pending and have not been finally decided, we find that at this stage it would not be appropriate to interfere with the same, particularly keeping in mind the Impugned Order is only an *interim* order, i.e. it has not been finalized.

11. However, understanding the anxiety faced by the Appellant, particularly regarding their allegations that the interim Impugned Order is erroneous under law, we hereby refer the matter back to the Trial Court to hear the pending applications in accordance with law, in particular application being C.M.A. No. 10271/2022 in Suit No. 597/2023, after properly hearing all the parties concerned, within a period of thirty (30) days from the date of this Order. It is further directed that in the event the said C.M.A. No. 10271/2022 is not decided within the stipulated period of thirty (30) days, the Impugned Order dated 25.11.2024 shall stand suspended and the *interim* order encompassed therein shall automatically stand vacated (except and unless any delay is caused / attributed to the Appellants).

Accordingly, this Appeal stands disposed in the above terms.

JUDGE

JUDGE

M. Khan