

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 360 of 1993

Date

Order with signature of Judge

For hearing of CMA No.11935 of 2012:
(A/w evidence file)

16/09/2013:

Syed Saeeduddin Nasir, Advocate for the plaintiffs.

Mr. Waseem Akhtar, Advocate for Defendant No.1.

None present for Defendants No.2 and 3.

This is an old case pending since 1993 between the legal-heirs of Rasool Bux. The suit is for only one property situated at House No.131, Pir Ellahi Bux Cooperative Housing Society, Karachi. In this respect orders dated 23.5.2005 is very clear. However, somehow or the other the property could not be sold. Subsequently, as the property could not be sold order of sale was recalled. However the basic reason for failure to get a buyer was due to the fact that some of the legal-heirs are in possession and some are not in possession and, therefore, the legal-heirs who are in possession are trying to keep changing the portion in their possession and creating problems in smooth sale of the property. The application listed today has been filed by Defendant No.1 to restrain some other legal-heirs from selling their shares/portion in their possession. In the counter-affidavit it is alleged that a settlement has been arrived at between the parties.

After hearing at length I am of the view that this property could not be sold without taking over the possession of the

property by Court. Since this property could not be sold on account of possession of the legal-heirs or otherwise both the learned counsel seek time to settle between themselves that what would be the mode of the sale of the property. This case is pending since the year 1993 only one week's time is granted to ensure a peaceful settlement. It is clarified that as ordered earlier that there is no alternate except sale of the property and such order was already passed and parties cannot be allowed to frustrate the order of Court to their advantage at the expense of those L.Rs. who are not in possession

Adjourned to 23.9.2013.

JUDGE

S. Akhtar