

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI.

SUIT No.424 OF 2010

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1. For hearing of CMA 9937/2013 (u/s 151, CPC)
 2. For hearing of CMA 10453/2013 (u/s 151, CPC)
 3. For orders on CMA 11310/2013 (u/s 151, CPC).

24.10.2013.

Mr. Baqi Mehar, for plaintiffs.
Mr. Muhammad Azhar Farid, for bidders-Sanober Tahir and Sanaullah Iyas.
Mr. Sohail Abbas, for bidder-Abdul Hameed.
Mr. Muhammad Zaki Ahmed, for bidder-Aziz Ahmed.

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1 to 3. This is a Suit for Administration in which issue is between the brother and sisters regarding only one property viz. Bungalow constructed on Plot No.97, measuring 856 square yards, situated in Blocks 7&8, Overseas Cooperative Housing Society Limited, Karachi, (hereinafter referred as the “**suit property**”). By order dated 27.5.2013 Nazir of this Court was directed to sell the suit property through public auction with the right of first refusal to legal heirs. Nazir’s report dated 21.8.2013 stipulates that despite publication in leading newspapers nobody has come forward to make an offer for the purchase of the suit property.

Soon after, the listed applications have been filed by three strangers to these proceedings. In each application, the applicants have shown themselves as bidders and each applicant has also made an offer. The counsel for plaintiffs is present in Court and he is of the view that there is a possibility of family settlement between the parties. There will be a family settlement or not, irrespective of this proposition, the question arises as what is the locus standi of the persons who styled themselves as the bidders/auction purchasers and have failed to appear before Nazir of this Court in response to the publication made in leading newspapers regarding sale of the suit property. None of the three applicants is party to these proceedings nor they participated in the bidding process before the Nazir to acquire any right to be present in Court under the cover of any illegality in the auction of the suit property. In the suit these bidders, being strangers to the proceedings, have no right of audience nor

have they shown any grievance against any of the parties to claim any right or seek any relief from the Court.

In view of above facts, I am afraid that the listed applications are not maintainable, which are accordingly dismissed. However, may be in future if family dispute is not resolved/settled between the parties and Court is obliged to pass another order for auction of the suit property and the applicants may participate in the bidding process in accordance with law. Once these applications have been dismissed it has been informed that the bidders at their own have got prepared pay-orders in the name of Nazir of this Court and they may be given permission for cancellation of such pay-orders and for which NOC from Nazir of this Court is required. Accordingly, the permission is granted. It is, however, interesting to note that the bidders have prepared the said pay-orders without any direction or notice. It is further observed that they have willfully avoided to participate in the open auction before the Nazir otherwise seeking permission would not have been required. It is expected that the bidders will be careful in future otherwise Courts will not indulge in permitting cancellation of pay-orders.

Judge

Ayub