

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 994 of 2007

Date

Order with signature of Judge

For hearing of CMA Nos:

1. 5532 of 2011 (U/O 39 R 1&2 CPC)
2. 6965 of 2007 (U/S 94 CPC)
3. For examination of the parties/settlement of issues.

07/11/2013:

M/s. Syed Ali Ahmed Tariq and Mirza Abdul Ghafoor,
Advocates for the plaintiff.

Mr. M. A. Khan, Advocate for Defendant No.1.

CMA No.6965 of 2007 is wrongly fixed by the office as it was earlier disposed. However, learned counsel for the plaintiff states that his CMA No.6966 of 2007 is pending which was for appointment of receiver during pendency of the suit. When the Court asked that which property is now left with the defendants on which receiver is to be appointed, learned counsel for the plaintiff says that this application may be deemed as disposed of in terms of order dated 6.12.2010 when this application was fixed and heard by the Court. Accordingly, it is so ordered.

It is also contended by the learned counsel for the plaintiff that this being a suit for rendition of accounts, dissolution of partnership firm and damages, therefore, a preliminary decree may be passed in terms of Order XX Rule 15 CPC. After six years of filing of this suit and after the purpose of partnership having already been achieved by the parties such a request would only facilitate in creating a quick evidence between the parties. Now the case is left to the extent that what amount should have given by Defendant No.1 to the plaintiff in terms of partnership agreement. The Defendant No.1 in Para 2(iii) of the written-statement has admitted partnership and even the entitlement of plaintiff's share. Learned counsel for Defendant No.1 informs that the project in

which the plaintiff is a partner was on different piece of land when the partnership started and the area of the project was increased subsequently. However, he admits that this was done during the partnership. It is also admitted position that till date the partnership has not been dissolved by will or otherwise. The Nazir of this Court on different dates have made certain enquiries/ inspection of the business of the partnership. Learned counsel for Defendant No.1 claim that in para 7 of his written-statement he has already declared that the partnership stands dissolved. However, there is no record of dissolution of partnership, therefore, for all legal purposes the partnership is alive as of today. In the circumstances keeping in view of the fact that the record of entire flats which are subject matter of the partnership deed are with the Nazir of this Court, a preliminary decree is passed to the effect that the Nazir in terms of Order XX Rule 15 CPC take accounts of partnership and take all other steps towards settlement of the accounts of the partnership. The partnership shall stand dissolved the moment Nazir submit his report regarding the statement of account of partnership. He may make any enquiry with regard to the bank accounts of the defendants. He should also obtain details of the accounts maintained by Defendant No.1 in different banks during the partnership.

Nazir to submit his report within one month from the receipt of this order.

In view of above order CMA No.5532 of 2011 also stand disposed of.

JUDGE

S.Akhtar