

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
Suit No.1137 of 2010

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ORDER WITH THE SIGNATURE OF THE JUDGE

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For hearing of CMAs Nos.:

1. 9250/2013 (u/o 38 CPC r/w section 141 CPC)
2. 9261/2013 (u/s 151 CPC)
3. 9262/2013 (u/o 21 R. 86 CPC)
4. 3005/2013 (u/s 151 CPC)

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**20.12.2013**

Mr. Muhammad Atiq Qureshi, Advocate for Plaintiff.  
Mr. Shabbir Ahmed Shaikh, Advocate for Defendant

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The counsel for the parties have drawn attention of the Court to para 3 of the Nazir's report dated 13.08.2013, which was taken on record on 07.11.2013. According to the report, the plaintiff has offered a bid of an amount of Rs.2,45,00,000/- for purchase of Warehouse bearing No.7-C, Group Warehouse Area, off M.T. Khan Road, Karachi. The plaintiff as per report has requested for adjustment of the sale proceeds from his share in other property of the deceased bearing House No.63, 14<sup>th</sup> South Street, Phase-II, DHA, Karachi. According to paras 3 and 4 of the Nazir's report the share of the plaintiff and the defendant comes to Rs.3,35,00,000/- and after adjustment the plaintiff is entitled to Rs.90,00,000/-.

The defendant has also filed an statement of accounts on oath on 20.08.2013 and the objections were filed by the plaintiff to that statement of account. However, in para 20 of the counter affidavit/objections to the statement of accounts the plaintiff himself has admitted that as on August 2013, the plaintiffs were entitled to a sum of Rs.42,46,154/- towards their share in the rental income of the said warehouse. The defendant is not disputing that figure but now the plaintiff wants to say that this is not the

complete claim of the plaintiff. Be that as it may, at this point of time, the Nazir is directed to retain the said amount (Rs.42,46,154/-) from the amount payable to the defendant as per para 3 of the report of the Nazir and invest the same in some profit bearing scheme. The Nazir shall also disburse an amount of Rs.90,00,000/- to the plaintiffs in terms of his report.

The property bearing Warehouse No.7-C, Group Warehouse Area, off M.T. Khan Road, Karachi now stands transferred in the name of the plaintiffs and all the codal formalities for such transfer may be completed by the Nazir/Defendants in accordance with law. From 1<sup>st</sup> January 2014 onwards the rental income of Warehouse No.7-C, Group Warehouse Area, off M.T. Khan Road, Karachi shall be the exclusive right of the plaintiff and the plaintiff shall receive the rent from the tenants of the said property directly. All litigation and liabilities of this property from 01.01.2014 shall be the liabilities of the plaintiff.

It is stated by the counsel for the defendant that the defendant has been depositing the rent of the said warehouse with the Nazir of this Court ever since the proceedings were started. The Nazir is directed to file a fresh report regarding the amount already lying with him on account of rental income in respect of Warehouse No.7-C, Group Warehouse Area, off M.T. Khan Road, Karachi and also to the effect that how much amount has been disbursed from rental income and to whom.

By consent of the parties present in Court, out of the remaining properties of the deceased, only one property bearing House No.B-15, Scheme-33, Audit Employees Cooperative Society, Karachi measuring 400 square yards is not disputed, which may be put to auction by the Nazir in accordance with law. Both, the plaintiffs and the defendant, are directed to deposit

Rs.15,000/- with the Nazir of this Court in equal proportion, on account of expenses towards the auction proceedings of the said property.

Adjourned to a date in office.

JUDGE

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