

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
Ex. No.41 of 2013

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Date                      Order with signature(s) of Judge(s)  
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For hearing Execution Application

24.02.2014.

Mr. Mahmud Alam & Muhammad Siddique, advocate for the D.H.  
Mr. Khalid Mahmood Dhoon, advocate for the J.D No.1 files  
Vakalatnama.  
Raja Qasit Nawaz, Advocate for the J.D No.2 files Vakalatnama.  
Mr. Adnan Iqbal Chaudhry, Advocate for the J.D No.3.

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In terms of order dated 07.10.2013 Nazir was directed to submit report within three weeks for further orders. Issue in this execution proceeding is compromise entered in the suit for administration, possession, partition, rendition of account of the estate of deceased Raja Muhammad Sarwar Khan. The compromise indicates that there is no dispute with respect to the respective shares of the parties before this Court nor there is dispute about ownership of the properties, which were mentioned in Suit No.1348/2003, the unfortunate part is that compromise has not been given effect since 03.01.2009. Today again when this application is fixed for hearing, counsel for the J.D No.2 has filed objections. Unfortunately objections to a compromise application regarding its implementation can only lead to the propositions that the compromise has been frustrated. The objections, Vakalatnama of Raja Qasit Nawaz for the J.D No.2 is taken on record. Mr. Khalid Mahmood Dhoon, advocate has also filed power on behalf of the J.D No.1. Since assets of the deceased are still intact as were on the date of opening of succession in 2003 and 11 years' time has expired, the Court has left

with no option except to act and ensure that the estate is being distributed amongst the legal heirs as per Sharia.

Nazir has not filed the report, in the first place he is directed to file his report and meanwhile he should initiate proceeding of auction of each and every undisputed property through a comprehensive auction. Notice in which every property should be separately identified. Each and every legal heir is directed to deposit Rs.10,000/- each within one week with the Nazir of this Court as expenses of auction of the properties. Nazir is also directed to obtain original title documents of each and every property within one week from today. Nazir is specifically directed that he should report about conduct of the parties in the process of auction so that if anybody is found trying to frustrate auction, action may be taken against him. This observation is made only in view of the fact that pending disposal of the properties by auction, nobody should be dispossessed from the premises in their possession. If there will be complain auction is frustrated on account of occupants of different properties obviously Court will consider the taking over of the property before the next attempt of auction. Legal heirs are at liberty to participate in the auction in respect of any property or each and every property as they may wish to do so that on account of matching the auction of stranger it may not be frustrated in the name of giving time to the legal heirs to match the auction price.

JUDGE