

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Suit No.1322 of 2011

Date	Order with signature(s) of Judge(s)
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1. For hearing of CMA No.2089/2012.
2. For hearing of CMA No.1622/2012.
3. For hearing of CMA No.11027/2011.
4. For hearing of CMA No.11028/2011.
5. For hearing of CMA No.11030/2011.
6. For hearing of CMA No.11032/2011.
7. For examination of Parties/settlement of issues.

22.01.2014.

Mr. Kashif Peracha, advocate for the Plaintiff.
Mr. Mirza Adil Baig, advocate for the Defendant No.____.
Mr. Muhammad Ejaz Mubarak Khattak, advocate for the
Defendant No.2.

1&5. CMA No.2089/2012 & CMA No.11030/2011. This is a Suit for Administration in which the Properties of the Deceased Asif Aziz mentioned in Paragraph-4, 5, 6 and 7 have been shown as assets left behind by the Deceased and the Plaintiffs No.1 to 5 and the Defendant are the legal heirs of the said Deceased. The Plaintiffs have filed an Application being CMA No.11030/2011 after receiving the written statement of the Defendant wherein the Defendant has claimed that the Property bearing Plot No.9/112, Beach Street, Phase-VIII, Defence Housing Authority, Karachi, admeasuring 1000 sq. yards is not the Property of the Deceased, therefore, the same cannot be included in the assets of the Deceased.

Learned counsel for the Plaintiffs sought to implead the Defence Housing Authority, Karachi and the Defence Housing Authority, Karachi has intimated that the said Property at that time of his death was not

owned by the Deceased. On 29.10.2013, learned counsel for the Plaintiffs sought time to seek clarification from his Clients and now he has categorically stated that his Clients have admitted that in the written statement given by the Defence Housing Authority, Karachi that the said Property did not belong to the Deceased. However, they have certain disputes, which cannot be examined by this Court in these proceedings. In the circumstances and the facts as stated above, a Preliminary Decree may be prepared in terms of Order XX Rule 18 CPC by the Office in respect of the Properties mentioned in the Plaint except the aforesaid Plot. With this observation CMA No.2089/2012 and CMA No.11030/2011 stand disposed of. Official Assignee is directed to execute Preliminary Decree and hold an enquiry if need be.

2. **CMA No.1622/2012.** Learned counsel for the Plaintiffs does not want to press this application, which is dismissed as not pressed.

3. **CMA No.11027/2011.** This application for exemption, which is pending without any contest and even otherwise this is a formal application, it is allowed subject to all just exceptions.

4. **CMA No.11028/2011.** Since Preliminary Decree has been ordered to be issued, the Parties are directed to maintain status quo and the interim order passed earlier stands confirmed on the same terms and conditions.

6. **CMA No.11032/2011.** The Plaintiffs through this Application seek directions to Pakistan Security Printing Corporation (Pvt.) Limited to disclose the details of service benefits including pension

of Deceased Asif Aziz, who was working in the said Institution. Learned counsel for the Defendant has pointed out that the Pakistan Security Printing Corporation (Pvt.) Limited has already filed written statement though it is not the Party in this case. However, the written statement is also available on record. Learned counsel for the Plaintiffs is directed to examine this written statement and copy of the same may be collected by the Official Assignee so that he should know about the dues of the Deceased Asif Aziz to be paid by the Pakistan Security Printing Corporation (Pvt.) Limited. Since Preliminary Decree has already been ordered to be drawn, therefore, written statement of Pakistan Security Printing Corporation (Pvt.) Limited is also taken on record. As nothing has been left to be done to find out any further assets of the Deceased, Official Assignee is directed to hold an enquiry in terms of Order XX Rule 13 CPC and comply with the exercise to the satisfaction of the legal heirs of deceased Asif Aziz.

Learned counsel for the Plaintiffs has informed that Mr. Ghulam Murtaza, Advocate appearing on behalf of J.S. Bank is present in Court. Mr. Ghulam Murtaza, Advocate has made a simple statement regarding account maintained by the Deceased Asif Aziz in their Bank. Mr. Ghulam Murtaza, Advocate is directed to file a comprehensive Statement of Accounts before the learned Official Assignee so that he may examine the same for the purpose of distribution of funds. With this observation, this application stands disposed of.

There is one more application being CMA No.11031/2011, which is also pending only on the point that Faysal Bank is required to disclose the details of Accounts maintained by the Faysal Bank. On several dates,

notices have been issued to the Manager, Faysal Bank, North Nazimabad Branch, Karachi. On 29.10.2013, learned counsel for the Plaintiffs was directed to supply the address of the Regional Manager, Faysal Bank so that notice may be issued to the Regional Manager, Faysal Bank, since the Manager, Faysal Bank, North Nazimabad Branch, Karachi is not cooperating and is avoiding to submit Statement of Accounts despite Court's order. It is hereby ordered that on the next date of hearing, unless Mr. Kashif Peracha, learned counsel for the Plaintiffs get the notice issued to the Regional Manager, this application will be dismissed and no action will be taken against Faysal Bank. Issue notice to the Regional Manager, Faysal Bank on Application being CMA No.11031/2011 with the warning that in case non-compliance of the order of this Court, Contempt Proceedings will be initiated against the Manager, Faysal Bank, North Nazimabad Branch, Karachi and Regional Manager, Faysal Bank, Karachi. Learned counsel for the Plaintiffs is directed to supply the names of Manager, Faysal Bank, North Nazimabad Branch, Karachi and Regional Manager, Faysal Bank, Karachi on the next date of hearing, if they fail to comply with the Court's order.

Adjourned to 12.02.2014.

JUDGE