

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Suit No.300 of 1988

ORDER WITH THE SIGNATURE OF THE JUDGE

1. For hearing of CMA No.10196/2010 (U/o. VII Rule 10 CPC)
2. For hearing of CMA No.5303/2010 (U/s. 151 CPC)
3. For hearing of CMA No.4976/2010 (U/s. 151 CPC)
4. For hearing of CMA No.6624/2010 (U/o. I Rule 10 CPC)
5. For hearing of CMA No.9258/2012 (U/s. 151 CPC)
6. For hearing of CMA No.10417/2013 (U/s. 151 CPC)
7. For hearing of CMA No.11385/2013 (U/o. I Rule 10 CPC)
8. For hearing of CMA No.11386/2010 (U/s. 94, 151 CPC)
9. For hearing of Nazir report dated 12.6.2010
10. For hearing of Nazir report dated 04.09.2010
11. For Examination of parties / settlement of issues

22.01.2014

Mr. Mushtaq A. Memon, Advocate for Plaintiff
Mr. Ravi Panjani, Advocate for Intervener.
Mr. Fasih-uz-Zaman Abbasi, Advocate for the
Defendant No.12.
Mr. Naveed-ul-Haq, Advocate.
Mr. Haider Imam Rizvi, Advcoate.
Mr. Agha Zaffar Ahmed, Advocate for Intervener.
Mr. Azhar Alam Farooqi, Advocate.
Ms. Naheed Naz, State Counsel.
Ms. Sana Minhas, Advocate.
Zulfiqar Ahmed Applicant / Intervener.

1. The learned counsel for the Defendant No.12 is in the receipt of the counter affidavit. Through counter affidavit he had also came to know about the orders passed by learned IInd Sr. Civil Judge. On the last date of hearing and even today learned counsel for the Defendant No.12 is of the view that order received by him alongwith counter affidavit was incorrect order passed by the learned IInd Sr. Civil Judge. Learned counsel insisted that this Court should take notice of that incorrect order. Unfortunately the status of this Court in this case is not the status of higher forum to comment on the order passed by IInd Sr. Civil Judge in these very proceedings, therefore, I am not in a position to comment on the correctness or legality of this order. The other grievance of the Defendant

No.12 is that this order had never been placed lawfully in the Court file and he has also complained that certain Court diaries are missing from the Court record. This contention too, cannot be entertained by this Court. He has already filed complained regarding missing of record from the Court file with Registrar of this Court. Since order of IInd Sr. Civil Judge is still intact and neither it has been challenged nor it is under challenge despite the fact that at least for last one month or so when the counter affidavit was received by the defendant No.12, it is in their knowledge. Therefore, I can hear and dispose of this application under Order VII Rule 10 & 11 read with Section 151 CPC, however as a matter of last chance given to the defendant No.12 to come prepared and argue this application without confusing the matter with this kind of argument that the record is missing. I will decide the application on merits on the basis of available record.

2. This is an application filed by one Mr.Jamilur Rehman and Muhammad Jehangir, who are not party in this suit. It is stated by the counsel for the applicants that applicants made an attempt to become party in this suit and they had filed an application under Order 1 Rule 10 CPC, which was dismissed by this Court as far back as on 23.4.2007. It is estranged even after failing to become party in this suit and having already filed suit No.796/2007 to secure their right and interest in the properties they have chosen to file application under Section 151 CPC in this case. There is no concept of entertaining application under Section 151 CPC from the stranger to the proceeding. This application being misconceived, the same is dismissed.

3. Deferred.

4&5. Mr. Mustaq A. Memon, learned counsel for the Plaintiff informs that they have received copies of the applications of interveners only couple of day both and need time to file counter affidavit.

6, 7 & 8. Deferred.

9&10. Nazir's reports dated 12.6.2010 & 04.9.2010 are taken on record
subject to all just exceptions.

11. Deferred.

Adjourned to a date office.

JUDGE

SM