

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**

Suit No.300 of 1988

Suit No.796 of 2007

Suit No.628 of 2010

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Order with signature of Judge

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1. For hearing of CMA No.10196/2010.
2. For hearing of CMA No.4976/2010.
3. For hearing of CMA No.6624/2010.
4. For hearing of CMA No.9258/2010.
5. For hearing of CMA No.10417/2010.
6. For hearing of CMA No.11385/2010.
7. For hearing of CMA No.11386/2010.
8. For examination of the Parties/Settlement of Issues.
9. For hearing of CMA No.8910/2013.

18.02.2014.

Mr. Fasihuzzaman Abbasi, advocate for the Plaintiff in Suit No.628/2010 and for the Defendant No.12 in the instant Suit.

Ms. Sana A. Minhas, advocate for the Defendants No.1 to 44 in Suit No.628/2010.

Mr. Izhar Alam Farooqui, advocate for the Defendants No. 47 to 52.

Mr. Naveedul Haq, advocate for the Defendants No.45 to 48, 49, 50 and 52.

Mr. S. Haider Imam Rizvi, advocate.

Mr. Ravi Panjwani, advocate for the Interveners.

Ms. Hina Rabbani, advocate for the Defendants No.54 & 55.

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1. This application under Order VII Rule 10 & 11 CPC has been filed by the learned counsel for the Defendant No.12. When confronted with the record of the Court that this Suit has been transferred back to this Court from the trial Court under the judicial order on account of pecuniary jurisdiction, learned counsel did not press the ground of return of Plaint to be presented in Court having pecuniary jurisdiction other than this Court. However, he insisted that this Court should examine the question of rejection of the Plaint as he has also taken the ground of lack of cause of action for filing the Suit. He has mainly argued

that the Plaintiffs are driving the title from the Defendants No.1 to 9 and the said Defendants have been shown as benami owners. He contended that the Plaintiffs have filed the Suit claiming ownership without any documents. He has also argued that the order of the Revenue Department on which the Plaintiffs relying to claim ownership is not available in the Revenue Record. Be that as it may, the question of status of the Defendants No.1 to 9 as benami owner or otherwise and the non-availability of record in the Revenue Department are not relevant to attract the Provisions of Order VII Rule 11 CPC. The Plaintiffs' title can only be decided after recording of the evidence. It is also pointed out by the learned counsel for the Plaintiff that earlier an application under Order VII Rule 10 & 11 CPC (CMA No.6251/1991) filed by some other Defendants was dismissed on merits by order dated 25.05.2001. Learned counsel for the Defendant No.12 himself examined the said order in which the question of cause of action was also examined and decided in favour of the Plaintiffs. In view of these facts, this application is misconceived and, therefore, it is dismissed.

2. Through this application, learned counsel for the Defendant No.12 seeks recalling of the order of appointment of Receiver dated 18.04.2002. Learned counsel for the Defendant No.12 admits that after this order when the learned Receiver for the first time approached the Suit land on 20.06.2002, they moved an application for becoming the Party to the Suit. Thereafter their application was allowed and they were impleaded in the year 2007. However, the instant application for recalling the order dated 18.04.2002 was filed on 13.05.2010 after 8 years without any plausible explanation. This application is dismissed as time barred.

3. This application has been moved by the Intervener Zulfiqar Ahmed. Through this application, he claims that some land was allegedly awarded to him under MR-5. Earlier too he had filed similar application as Intervener to become Party in the C.P. No. D-344/1986. He has also placed on record a letter received by him from the Government of Sindh dated 27.09.2011 directing him to approach the Central Office of the Board of Revenue for compliance of the order passed in the said Petition. Since his claim is already adjudicated upon by this Court in the C.P. No. D-344/1986 and he is pursuing remedy pursuant to the order passed in the C.P. No. D-344/1986, therefore, he cannot be impleaded in the present Suit on the same ground. He may take appropriate step to get his grievance redressed against the Board of Revenue by filing appropriate application in the said Petition. He is not necessary Party in this case since he has not filed a single document to show that the Intervener has any right in the Suit land. Consequently, this application is dismissed.

4. Since the application listed at Sr. No.3 has been dismissed, therefore, this application has become infructuous and it is also dismissed as such.

5,6,7&9. These Applicants/Interveners have also filed Suit No.1273/2013, and the other Interveners, whose applications to be impleaded in this case, have already been allowed, too have filed their respective Suits. Therefore, keeping in view the fact that the Suit No.330/1988 is oldest Suit and each and every Plaintiffs in the subsequent Suits is claiming ownership right in respect of certain

portion of land involved in Suit No.330/1988, Suit No.796/2007, Suit No.979/2002, Suit No.628/2010 and Suit No.1273/2013. All these Suits are consolidated and the Suit No.330/1988 would be leading Suit. The Parties are directed to file proposed consolidated Issues by the next date of hearing before this Court. Once the issues are adopted, the evidence would be recorded through Commission. All the Parties are directed to cooperate with each other to get all these Suits disposed off on merits. Adjourned to 25.02.2014 for framing consolidated Issues. All the applications stand disposed off in terms of the above order.

Ms. Sana A. Minhas, learned counsel for the Defendants in Suit No.796/2007 and Suit No.628/2010 has filed an application under Order VII Rule 11 CPC in the said Suits. The said Applications will be taken up on the next date of hearing and decided on merits at the time of framing consolidated Issues.

Office is directed to fix all the five Suits for settlement of Issues on 25.02.2014.

JUDGE

MUBASHIR