

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
Suit No.655 of 2009

---

ORDER WITH THE SIGNATURE OF THE JUDGE

---

For hearing of CMA No.10197/2011 (U/o. VII CPC)

**21.01.2014**

Mr. R. F. Virjee, Advocate for the Plaintiff.  
Mr. Ali Asghar Burriro, Advocate for the Defendant.

.-.-.

This suit filed by the plaintiff against the defendants during lifetime of Mst.Arsh Bibi, mother of plaintiff and Defendants No.1 & 2 and wife of Defendant No.3. In this suit certain properties were alleged by the Plaintiffs to have unlawfully been transferred or got transferred by the Defendants to deprive the plaintiffs from the legitimate inheritance in the said properties. During pendency of the suit by consent an order was passed on 27.5.2011 whereby the rent accrued and realized by the Defendants No.1, 2 & 3 from the properties in their possession was directed to be deposited in Court and that order has been complied with by them. However, Arsh Bibi had died on 01.2.2009 and the same Plaintiffs have filed another suit bearing Suit No.655/2009 for administration of the properties of Mst. Arsh Bibi and the defendants are the same who are defendants in Suit No.1414/2008. In this subsequent suit bearing No.655/2009 for administration of the properties left by the deceased Arsh Bibi the disputed properties are also one and the same about which declaration was sought in the earlier suit. In both suits subject matter is the properties of the deceased Mst. Arsh Bibi and there would definitely be an issue regarding the correctness and legality of such transfer of the properties in favour of defendants even in the lifetime of Mst. Arsh Bibi was intended to deprive the plaintiffs right to inherit the

same and whether those properties should be treated as part and parcel of the assets of Mst.Arsh Bibi, therefore, on filing of Suit No.655/2009 the earlier suit has become infructuous. In the circumstances, Suit No.1414/2008 has become infructuous. However, the order regarding deposit of rent passed in Suit No.1414/2008 shall be treated as an order in present suit for administration and the Defendants No.1, 2 & 3 shall continue to deposit rent with the Nazir, which they are realizing from the said properties as per order dated 27.5.2011 in Suit No.1414/2008. Nazir is directed to correct his record and treat all payments so far received by him as payment of rent receipt in Suit No.655/2009. In view of the above, suit No.1414/2008 alongwith all listed application stand disposed of. Mr. R. F. Virjee learned counsel for the Plaintiffs wants that one line be added in this order that no third party interest should be created by either of the legal heirs in the plaint of Suit No.655/2009. It is so ordered.

Issues have already been framed in Suit No.655/2009 on 22.4.2010. Parties are directed to file additional issue, if any, within two weeks in the light of observation made above.

JUDGE

SM