

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

S.M.A. No.227 of 2016

Date Order with signature of Judge

For orders on CMA No.1591/2017

18.10.2017

Mr. M. Ghaffar Khan, Advocate for the Petitioner along with attorney of the petitioner Syed Ghazanfar Hussain Abidi Witnesses M. Rizwan Wasti and Suhail Ali Wasti are also present.

Mr. Farooq Rasheed, Advocate for the Objectors.

Objectors Mst.Anita Saleem, Syed Fahad Saleem, Ms.Anna Saleem and Syed Rehman Shah are also present.

Urgent application filed by the petitioner is granted.

The order dated 24.08.2017 reflects that the petitioner and the legal heirs of the deceased were present but two witnesses were called absent. According to Nazir report dated 03.08.2017, HBFC has already confirmed the title of the deceased in relation to Flat No.D/G/4, Florida Homes, Block-A, Street 33, Phase-V, D.H.A., Karachi. So far as the Bank statement is concerned, Nazir was appointed to verify and he has submitted the Bank statement which shows that Rs.3,044.73 are lying in the closed Bank account of the deceased in UBL. Two witnesses are present. Their affidavits are also available on record.

2. Today, the objectors Mst.Anita Saleem and Syed Fahad Saleem have filed their affidavits of no objections and since Syed Rehman Shah is minor and special child as well as Anna Saleem is also minor, therefore, on their behalf their mother Mst.Anita Saleem has filed their affidavits of no objection. Mst.Anita Saleem admits that the original title documents of plot

No.524, situated in I.B. Employees Cooperative Housing Society Limited, Islamabad are lying with her. It is agreed that the original title documents will be deposited by her with the Nazir of this court within 10 days. So far as the Flat No.D/G/4 situated in Florida Homes Block No.A, Phase-V, Street No.33, DHA, Karachi is concerned, it is already mortgaged with the HBFC. The petitioner wants letter of administration to pay off the dues of HBFC so that the property documents may be redeemed. The Schedule of property is available at page-35 in which the moveable and immovable both properties are shown.

3. Learned counsel argued that the petitioner is an old and infirm lady having age about 73 years, therefore, she has appointed Syed Ghazanfar Hussain Abidi as her attorney, who is present in court. The duty of an Administrator is to collect moveable and immovable assets of the deceased and pay off all loans and dues, thereafter, distribute the shares amongst the legal heirs. Learned counsel submits that the Administrator due to advance age is unable to perform duties diligently for administration of the deceased's estates, therefore, the petitioner's counsel as well as attorney of the petitioner and counsel for the objectors all have suggested that the task may be given to Nazir of this court to realize all the movable assets and after receiving amount the Nazir shall distribute the same in accordance with Shariah among all the legal heirs. The Nazir will also pay off the amount of HBFC from the receipts and also approach the HBFC for redemption deed and collect the original title documents from the HBFC and will retain the same till further orders. The Nazir shall also retain the shares of minors Syed Rehman Shah as well as Amna Saleem and invest the same in some Government profit bearing scheme. The Nazir will estimate the value of Toyota Corolla Car bearing Registration No.ALK-085 and if legal heir Mst.Anita Saleem wants to buyout this car she will pay the

amount or the value of the car shall be adjusted in her share. Mst.Anita Saleem also admits that the shares certificates of Fauji Fertilizer Bin Qasim Limited, Jahangir Siddiqui & Co. and American Express Travellers Cheques are in her custody, which she will deposit with the Nazir of this court within 10 days. The Nazir shall encash the Shares Certificates, and Travellers Cheques. He will also withdraw the amount lying in the Bank Accounts of deceased, thereafter, the Nazir shall prepare the accounts and calculate the shares in accordance with Shariah of the legal heirs in moveable assets. Before disbursement, the Nazir will submit the report in court for further orders. The matter of immoveable properties will be seen later on. The title documents of flat and plot at Islamabad shall be retained by the Nazir till further orders. The Nazir fee shall Rs.30,000/- which will be deducted from the proceeds of the moveable assets. This exercise shall be completed within one month.

Adjourned to 21.11.2017.

Judge