

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
SMA No. 64 of 2017

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Date	Order with signature of Judge
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- 1.For order on CMA No.526/2018
- 2.For order on CMA No.527/2018

08.03.2018

Mr. Tufail H. Ebrahim advocate for the petitioner.

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1. Urgency granted.
2. This letter of administration was granted on 09.05.2017.  
At page No. 19 the schedule of property is mentioned which shows 50% undivided share in the Industrial Leasehold plot No. B-32, situated in Sindh Industrial Trading Estate, Limited, Karachi. Learned counsel for the petitioner has filed this application for seeking permission to sell out 50% share of the deceased in the property. Since two legal heirs are minor namely Mariam Rajani and Zain Rajani, therefore, the petitioner wants to deposit their shares with the Nazir of this court. The major legal heir Rida Hussain Abbas has also given her affidavit through attorney Mohsin Ali Gheewala in which he has endorsed his no objection on behalf of Rida Hussain Abbas. The power of attorney is available at page No.49 of the court file. In view of the above, 50% share of the deceased may be sold out by the petitioner, however, she is directed to deposit the share of two minors with the Nazir of this court within one week from the date of transaction and immediately the Nazir shall submit the report in court and also invest the

amount of minors in some government profit bearing scheme. The endorsement of Nazir shows that the petitioner has furnished surety for the grant of letter of administration that will not be released by the Nazir till further orders of this court. The proper provision to seek permission to sale is laid down under Section 307 of the Succession Act, 1925 but the petitioner has filed application under Section 151 CPC which in my humble view does not apply in presence of specific provision to deal the situation under the Succession Act itself. However, the court has to see the pith and substance of application and not the nomenclature, therefore, the application is treated under Section 307 of the Succession Act and disposed of accordingly. Petitioner shall also comply with all requisite formalities to the satisfaction of SITE Ltd for selling 50% share of deceased in the property in question.

JUDGE

Aadil Arab

