

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

M.A. No. 06 of 2011.

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For hearing of CMA-576 of 2011.
2. For katcha peshi.

06.04.2018.

Mr. Imtiaz Ali Channa, Advocate alongwith the appellant.

None present for the respondents.

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Zulfiqar Ahmad Khan, J.- The instant appeal has been preferred against the order dated 26.10.2010, passed by IInd Additional District Judge, Badin in Succession Application No.07/2010, where on an application moved by the appellant claiming to be successor of her deceased brother Usman Sheedi alongwith her nephew Haji Muhammad, was decided by including two new claimants one being Mst. Akeelan alleged wife and Baby Bakhtawar alleged daughter of the said deceased.

2. The appellant is present in person. A review of the order impugned shows that having filed succession application under section 372 of the Succession Act, notices were published which resulted in Mukhtiarkar (Revenue) Shaheed Fazil Rahu as well as the SHO filing statements having shown Mst. Akeelan and Baby Bakhtawar as deceased's legal heirs. The very ground of showing these two persons as legal heirs of the deceased was a document available on page-27 of the Court file, which is allegedly a Nikahnama of marriage of the deceased with Mst. Akeelan. It is worth noting that the said document is neither signed by any party nor it even mentions a date. This Court time and again issued notices to the respondents and on 17.08.2016 Mr. Munawar Ali Bhutto Advocate filed Vakalatnama on behalf of respondents No.2 and 3, but thereafter no representation has been made on their behalf for a long period. From filing of the instant appeal i.e. 24.05.2011 till date no objections or comments have filed by the respondents either. The appellant is present in person and submits that the alleged document shown to

be Nikahnama is fake as according to her knowledge, deceased never married.

3. A review of the document alleged to be a Nikahnama of marriage of the deceased, shows that neither it is in conformity of the applicable rules nor it has been signed by any of the parties nor a date is provided therein, which creates a serious doubt to the story of the respondents that the deceased was married. This couple with no objections having been filed to the instant appeal pending since 2011 and no effective representation having been made, gives a reasonable belief that the appellant has an acceptable case.

4. In the given circumstances, this appeal is allowed alongwith the pending application and as prayed, appellant Mst. Zaibun Nisa Wd/o Khuda Bux and Haji Muhammad, (sister and nephew of deceased Usman Sheedi, respectively), are declared as legal heirs of the deceased Usman Sheedi.

JUDGE

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