

ORDER SHEET

**THE HIGH COURT OF SINDH, KARACHI**  
SMA No.334 of 2018

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Date Order with signature of Judge

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1. For orders on CMA No.1704/2018
2. For orders on office objection a/w reply of Advocate on main petition
3. For orders on CMA No.1705/2018
4. For orders on CMA No.1705/2018

**01.10.2018**

Mr. Shamshad Ali Qureshi, Advocate alongwith Petitioner.  
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Office has raised objection as to maintainability of this succession petition, as it is only the petitioner who has come before this Court, whereas, other legal heirs have not consented to. Moreover, the petitioner is not in possession of any document(s) which are necessary for entertaining a Succession Petition. To this, learned Counsel for the petitioner submits that there is no prohibition under the Succession Act, 1925, to this effect, and it is the legal right of the petitioner, duly devolved on demise of his father, for which he has come before the Court; hence, office objections must be over-ruled and further proceedings be ordered.

I have heard learned Counsel and perused the record. On the face of it the contention so raised is wholly misconceived inasmuch as there appears to be a dispute amongst legal heirs in respect of property of deceased. In the memo of petition the petitioner has stated that his deceased father paid off the share of three legal heirs namely Mujib Ahmed Siddiqui (Rs:800,000/-), Rukhsana Waheed (Rs:500,000/-) and Shabnam Iqbal (Rs:100,000/-). This is a question which requires adjudication and within itself is a ground not to entertain this petition, as it involves intricate questions which are in dispute, and for that a proper remedy is a Suit for Administration.

Secondly, the petitioner through his petition and application(s) on record, has further requested the Court to carry out investigations in respect of Family Registration Certificate, property documents as well as death certificate of the deceased. This again is a request which cannot be entertained in a Succession Petition which in fact is for grant of letter of administration and not a Succession Certificate, wherein, some leniency is always shown by this Court. It is settled law that these are summary proceedings by all means and the intent, purpose and wisdom behind legislation of the Succession Act, 1925, is to facilitate the legal heirs of a deceased to get his properties transferred in their names and to get their respective share(s). This is all what is contemplated by this Act, and nothing beyond. It has been noticed time and again in several cases, that petitioner and or legal heirs of a deceased are coming up with prayers which are not akin to these proceedings; but can only be decided by a competent Civil Court by way of Suit. In such like matters for grant of letters of Administration, the Court has to deal with the matter summarily leaving aside the intricate questions of law and facts and only issue certificate to such person who has a prima facie case of entitlement of the same; but with the consent of all other legal heirs. In fact it is inexperience of the Counsel appearing before this Court, that such issues are coming up on daily basis, which is nothing but sheer wastage of precious time of the Court.

In Suits for Administration which is the appropriate remedy in this case, the claims of rival parties are examined and determined after proper investigation and if needed through evidence, whereas, these proceedings i.e. for grant of letter of administration through a Succession Petition before this Court on the Original Side, are

summary in nature and can only be entertained in an efficacious and expeditious manner, if all legal heirs are on one page as to the ownership of the property of the deceased as well as possession of all necessary documents and their willingness to give consent and No-objection in favour of any one of the legal heirs. The prayer in this petition appears to be more akin to a Suit for Administration; hence it cannot be entertained by this Court while exercising testamentary jurisdiction. In view of such position, this petition stands dismissed with pending applications; however, the petitioner is at liberty to file a Suit for Administration accordingly.

J U D G E

*Faizan/PA\**