

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D-4697 of 2017

Date	Order with signature of Judge
------	-------------------------------

For hearing of main case.

26.2.2020

Mr.Shohrat Hussain Rizvi, Advocate for Petitioners.
Mr.Muhammad Dawood Narejo, Advocate for Respondent
No.3.
Mr.Kafeel Ahmed Abbasi, DAG.

The Petitioner had challenged the order dated 27.5.2017 passed by the Additional District Judge, Gambat in Succession Miscellaneous Application No.1 of 2017 titled “Zamir Hussain son of Muhammad Suleman Narejo v. Manager HBL, Zamzama Branch, Karachi and Deputy Director (Admin), IB.

The brief facts of the case are that the son of the Petitioners, Manzoor Hussain Narejo, was serving in IB, who died on 19.8.2017. The Succession Petition was filed by his brother Zameer Hussain, who is also son of the Petitioners and he is also their Attorney. The Succession Petition was allowed in respect of Rs.1,35,000/= lying in the HBL, Zamzama Branch, Karachi. The Petitioner in SMA was authorized to collect and distribute the amount amongst the legal heirs, however, with regard to the dues, if any, payable to the deceased by the IB, the learned ADJ held that the Department is competent to decide the matter according to Rules and Regulations of the Department and Petitioner was directed to approach the concerned Department accordingly. Learned Counsel for the Petitioners argued that nothing was paid to the Petitioners, who are the real parents of the deceased and IB

released the amount to the Respondent No.3, who is widow of late Manzoor Hussain Narejo. The learned Counsel also pointed out letter dated 08.2.2017 submitted by the IB in Succession Petition No.1/2017, which shows certain dues, which were payable to the deceased by the I.B. The Petitioners' counsel argued that some directions may be issued to the IB or to the Court where the Succession Petition was decided to pay off the inherited share of the Petitioners.

On the contrary, the learned Counsel for the Respondent No.3 argued that no application was moved by the Petitioners in the Court where the SMA was pending or to the IB. He further argued that IB released the amount on the basis of nomination, made by the deceased during service to IB for the release of amount, therefore the Petitioners have no right to claim any such amount.

In fact this point was to be decided by the Court where the Succession Petition was filed but the learned ADJ simply observed that parties may approach to the IB despite the fact the proper disclosure of the amount was also made by the IB through their letter to the Court. The factual controversy or disputed questions of facts cannot be decided in the writ jurisdiction and if at this stage the impugned order is set aside as a whole, the entire succession proceedings will come to an end, so in our considerate view it would be in the advancement of justice that the Petitioners may file appropriate application in the Succession Petition No.1 of 2017, if they have not received their inherited share and if any such application is filed, the learned trial Court will decide the same in accordance

with law within a period of one month. The learned trial Court would also consider all the documents available on record or produced by the Petitioners including the documents submitted by the IB. The petition is disposed of in the above terms.

JUDGE

JUDGE

Shakeel, PS.

