

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI
SMA No. 114/2017

Date	Order with Signature of Judge
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1. For hearing of CMA No. 774/2018 a/w office objection (flag 'A').
2. For hearing of CMA No. 775/2018

Syed Sultan Ahmed, Advocate for the Applicant.
Syed Atta Muhammad, Advocate a/w Petitioner.

Date of hearing : 03.09.2019

ORDER

YOUSUF ALI SAYEED, J. – The SMA, pertaining to the estate of late Afzal Mehmood, widow of Syed Mehmood Ali, was allowed on 09.06.2017 with it being ordered that a Letter of Administration consequently be issued in favour of the Petitioner, namely Syed Muhammad Ali, who as per the contents of the Petition was disclosed as being the son and only heir of the deceased from her husband, Mehmood Ali.

In terms of the CMA 774/2018 that has since come to presented on 02.04.2018, the Applicant seeks revocation of the grant under Section 383 of the Succession Act on the ground that the deceased had died issueless, and that the Petitioner had misrepresented himself to be the real son of the deceased and her husband in the Petition on the strength of a birth certificate fraudulently obtained from the office of DMC Karachi East on 03.04.1991, reflecting them as his parents and his date of birth as 30.04.1979, when in fact he had been born on 08.05.1976 and been adopted from Anjuman ashana-e-Atfal-o-Naunihal on 24.06.1976. The Applicant, who is represented through his Attorney, namely one Hafiz Muhammad Asad Siddiqui, claims to be the nephew of the deceased and on the basis of his claim as to the Petitioner being adopted and thus excluded from inheritance, professes to be a legal heir of the deceased.

Learned counsel appearing on behalf of the Applicant invited attention to the photocopy of a letter/certificate dated 23.08.2017 issued by the Anjuman Kashana-e-Atfal-o-Naunihal purporting to certify that one Muhammad Ali had been born on 08.05.1976 and adopted by Mehmood Ali and Afzal Mehmood on 24.06.1976. He submitted that such document related to the Petitioner and evinced the factum of his adoption by the deceased and her late husband. He stated that the Applicant had also filed Suit No. 1980/2017 before this Court seeking a declaration as to the Petitioner adoption and his being disentitled to inherit from the deceased. He contended that under the circumstances, the Petitioner had no right to obtain a Letter of Administration, which ought to be revoked. Conversely, it was submitted on behalf of the Petitioner that he was the natural child of the deceased and that the CNIC of the Petitioner and the Family Registration Certificate issued by National Database and Registration Authority correctly reflected the familial relationship between the Petitioner and the deceased as well as his correct date of birth. It was submitted that the Application was mala fide and misconceived.

Having examined the matter in light of the submissions advanced and the material on record, it is apparent that no case for revocation stands made out as in the face of the official documents of the Petitioner, no sanctity can be attached to a mere photocopy of an unverified so called certificate issued by the Anjuman so as to conclude that the Petitioner is not the natural child of the deceased. The Application is therefore dismissed. CMA 775/18, having become infructuous in view of the dismissal of CMA 774/18, also stands dismissed accordingly.

JUDGE