

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

S.M.A No.322 of 2021

Date	Order with signature of Judge
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Present: Mr. Justice Nazar Akbar

1. For orders on CMA No.1389/2021.
2. For orders on CMA No.1390/2021.
3. For orders on Nazir's report dated 26.5.2021.

28.05.2021

Mr. Moizuddin Qureshi, advocate for the petitioner.

1. Urgency granted.

NAZAR AKBAR, J.- The record shows that the petitioner along with this SMA has filed an application for her appointment as guardian of **minor Alina Hasan**, however, surprisingly till today the office has not even assigned CMA number to the said application. Today another application CMA No.1390/2021 is listed for appointment of guardian ad-litem of another **minor Muhammad Ali Siddiqui**. The background of these two applications is that the deceased Hasan Mahmood had two wives and the petitioner is elder daughter from his first wife (Late Sumaira Hasan) and through un-numbered application filed with the Succession Petition, she has prayed for her appointment as guardian ad-litem of her real sister minor baby Alina Hasan. The other application (CMA No.1390/2021) has been filed by Mst. Fozia Hasan second wife of the deceased Hasan Mehmood for her appointment as guardian ad-litem of her son, namely Muhammad Ali Siddiqui from her wedlock with the deceased Hasan Mahmood. Both the applications are allowed and the respective ladies are appointed as guardian ad-litem of baby Alina Hasan and master Muhammad Ali Siddiqui respectively. The office is

directed to assign CMA number to the application for appointment of guardian ad-litem filed by petitioner Ms. Aiman Fatima and treat the same as disposed of along with CMA No.1390/2021.

2. Nazir of this Court through his report dated 26.5.2021 has sought permission to break open the locks of Bank Lockers in the name of deceased Hasan Mahmood. He is allowed to break open the locks of Bank Lockers and make such inventory.

3. There is no dispute regarding moveable assets to be distributed amongst the legal heirs of the deceased and as per schedule-I of the properties, the value of moveable properties to be distributed amongst legal heirs comes to **Rs.3, 71,02,156.76** and the petitioner has prayed for appointment of Nazir of this Court for collection and distribution of movable properties/money lying in different Bank Accounts maintained by the deceased amongst legal heirs as per sharia and the money/ share of minors may be kept in the custody of Nazir of this Court. In view of the fact that one minor legal heir namely baby Alina Hasan would be attaining majority on **14th November** this year, therefore, it is ordered that her share may be invested in Government profit bearing scheme probably within 15 days by the Nazir.

4. However, regarding share of the minor namely **Muhammad Ali Siddiqui**, who is only 5 years of age, the petitioner has filed an application in Court with prayer that his share, instead of being invested in Government profit bearing scheme, may be utilized in purchasing immovable property exclusively in the name of minor Muhammad Ali Siddiqui through his guardian under the supervision of Nazir of this Court. The mother of minor has already been appointed as guardian ad-litem by this Court. The request appears to

be reasonable since the value of Rupee invariably goes down and even the profit rate in 14 years would not be equal to the value of immovable property to be appreciated in 14 years. Therefore, Nazir of this Court should first realize the share of minor Muhammad Ali Siddiqui and keep in ordinary account instead of immediately investing in Government profit bearing scheme. The guardian of the minor will find out and identify the property to be purchased from share of the minor Muhammad Ali Siddiqui exclusively in his name. It may be clarified that in case any property is purchased for more than the actual amount of share of the minor, such extra money if offered by anyone and utilized by the Nazir towards the purchase of the property in the name of the minor on the pointation of his mother/ guardian such money will not create any encumbrance/ charge on the property. The documents of transfer of property, if any, to be executed should be executed by his mother as guardian ad-litem and it should exclusively be in the name of minor Muhammad Ali Siddiqui. The original title documents of said property would remain with the Nazir till the minor attains the age of majority. It is expected that Nazir of this Court should expedite purchase of proposed immovable property and ensure its clear title before execution of the documents in the Nazir's office. It is further ordered that once a property is purchased in the name of minor Muhammad Ali Siddiqui, the Nazir will rent out the said property on proper market rent in consultation with and approval of the guardian of minor/owner. The rent agreement will also be executed by the guardian ad-litem, witnessed by the Nazir and kept in the custody of Nazir. The rental income on six-yearly basis should be deposited by the Nazir in Government profit bearing scheme, however, the guardian ad-litem of minor Muhammad Ali Siddiqui would be at

liberty to make proper application for seeking withdrawal of rental money and profits, if any, from time to time for utilizing the same toward education and other needs of the minor. The office is directed to assign CMA number to this last mentioned application to invest share of minor in immoveable property and treat the same as disposed of.

JUDGE

Ayaz Gul