

IN THE HIGH COURT OF SINDH KARACHI

S. M. A. No. 148 of 2017

Date	Order with signature of Judge
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1. For orders on CMA No.2053/2017 (If granted) :
2. For hearing of Main Petition :

Mr. Salman Talibuddin Advocate for the petitioner
a/w petitioner Syed Zia Islam (CNIC No.420006-876847-1),
legal heirs Syed Misbahul Islam and Ms. Ghazala Islam,
and witnesses Humayun Viqar Zephyr and Farrukh Zaman.

Date of hearing : 28.12.2017.

ORDER

Urgency granted.

NADEEM AKHTAR, J. – The petitioner Syed Zia Islam has filed this petition under Section 278 of the Succession Act, 1925, for the grant of Letters of Administration in respect of immovable property viz. Plot No. 63/I, Khayaban-e-Shaheen, Phase V, Defence Housing Authority, Karachi, measuring 983.5 sq. yds. (described in paragraph 1 of the petition and Schedule of Property available at page 15) with bungalow constructed thereon, left by his late mother Mst. Musharraf Islam ('the deceased'), who passed away at Karachi on 21.11.2013. It is stated that the deceased died intestate and she is survived only by the following three (03) legal heirs :

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| (i) Syed Misbahul Islam | husband |
| (ii) Syed Zia Islam (petitioner) | son (major) |
| (iii) Ms. Ghazala Islam | daughter (major) |

2. In support of this petition, the petitioner has filed (a) original death certificate dated 26.11.2013 of the deceased, (b) copy of family registration certificate issued by NADRA on 11.05.2017 showing names of all the legal heirs / family members of the deceased, and (c) copy of registered Sub-Lease in Form 'A' dated 17.01.1976 in respect of Plot No.63/I, Khayaban-e-Shaheen, Phase V, Defence Housing Authority, Karachi, between Pakistan Defence Officers' Cooperative Housing Society Ltd. Karachi and the deceased. As per Statement / Schedule 'B' to the petition, there are no debts or liabilities of the deceased that require settlement.

3. The other two surviving legal heirs of the deceased, namely, Syed Misbahul Islam and Ms. Ghazala Islam, have submitted their affidavits stating that they have no objection if Letters of Administration are granted in the name of the petitioner. The above named two legal heirs, who are present in person, reiterate the contents of their affidavits. Syed Misbahul Islam, husband of the deceased and real father of the petitioner and Ms. Ghazala Islam, states that he has relinquished his share in the above mentioned property in favour of his real daughter, the said Ms. Ghazala Islam. In paragraph 6 of this petition, the petitioner has confirmed this statement and has submitted his no objection to this arrangement. The petition is supported by the affidavits of two witnesses, namely, (1) Humayun Viqar Zephyr S/O Viqar Ahmed Zephyr (CNIC No.42301-4009653-1) and (2) Farrukh Zaman S/O Qamar uz Zaman (CNIC No.42301-1733504-1), who are also present in person.

4. Notice of this petition was published in the Urdu daily '*Jang*' Karachi on 10.06.2017. As per the report submitted on 07.12.2017 by the Deputy Registrar (O.S.), notice was also affixed on the Court Notice Board, however, no objection whatsoever has been received from any quarter. As all the formalities have been completed as per rules, there appears to be no impediment in the grant of Letters of Administration in the name of the petitioner in respect of the above mentioned property left by the deceased. All the legal heirs of the deceased present today, including the petitioner, request that they may be allowed to submit original title documents of the above mentioned property as security for issuance of Letters of Administration. Since this is an uncontested matter and the request has been made by all the legal heirs who are present in Court, the request is allowed.

5. The petition is allowed. Let Letters of Administration be issued in the name of the petitioner subject to deposit of all original title documents of the above mentioned property by him with the Nazir of this Court and execution of personal bond by him to the satisfaction of the Nazir to the extent of valuation of the said property mentioned at page 21.

J U D G E