

Order Sheet  
IN THE HIGH COURT OF SINDH AT KARACHI  
**S. M. A. No. 66 of 2021**

Date	Order with signature of Judge
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For orders on CMA No.1053/2021 (Urgency) :

**16.04.2021** : Mr. Atir Aqeel Ansari, advocate for the petitioner.

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**NADEEM AKHTAR, J.** – The petitioner SYEDA SHAKIRA RAZA has filed this petition under Section 278 of the Succession Act, 1925, for the grant of Letters of Administration in respect of the immovable property viz. Plot No.B-365, Block 13, Improvement Scheme No.16, Federal ‘B’ Area, Karachi, measuring 400 sq. yds., left by her late real sister **SYEDA KHATIJA KAZIMI (“the deceased”)** who passed away at Karachi on 02.08.2020.

2. It is stated in the petition that the parents and other siblings (two brothers and two sisters) of the deceased passed away during the lifetime of the deceased ; the deceased was unmarried ; the petitioner, being the real sister of the deceased, is her only surviving legal heir ; the deceased belonged to the Shia sect of Muslims ; and, the deceased died intestate. Learned counsel submits that in view of the above factual position, the petitioner is entitled to 100% share in the above mentioned immovable property left by the deceased. In support of his submission he has placed reliance on Faiz Ahmad and others V/S Mst. Sahiban and others, 1989 SCMR 1142, Qamar Sultan and others V/S Mst. Bibi Sufaidan and others, 2012 SCMR 695, Ahmad Hussain Shah V/S Mst. Taj Bibi and another, 1993 CLC 2152, and Hussain V/S Mansoor Ali and 5 others, PLD 1977 Karachi 320.

3. In support of this petition, the petitioner has filed (a) original death registration certificate dated 14.09.2020 of the deceased issued by the Union Committee concerned ; (b) copy of the death certificate dated 30.01.1992 issued by KMC certifying that Syed Muhammad Raza Kazimi (father of the deceased) passed away at Karachi on 07.01.1992 ; (c) copy of the death certificate dated 17.02.1998 issued by DMC concerned certifying that Syeda Sughra Begum (mother of the deceased) passed away at Karachi on 28.12.1997 ; (d) copy of the death certificate dated 09.09.2020 issued by the Union Committee concerned certifying that Syeda Kazimi Moosavi (real sister of the deceased) passed away at Karachi on 05.06.2020 ; (e) copy of heirship certificate dated 10.07.1994 issued by the Assistant Commissioner concerned in respect of late Syeda Aziza Kazimi (real sister of the deceased) showing her

demise at Karachi on 10.04.1994 ; (f) copy of the death certificate dated 27.08.2019 issued by the Georgia Department of Public Health, USA, certifying that Syed Hadi Raza Kazimi (real brother of the deceased) passed away at Augusta, Georgia, USA, on 23.08.2019 ; (g) copy of the death certificate dated 15.03.2021 issued by the Registrar Department of Public Health, Texas, USA, certifying that Syed Safdar Kazimi (real brother of the deceased) passed away at Sugarland, Texas, USA, on 25.06.2018 ; and, (h) copy of the indenture of lease in respect of the above mentioned immovable property executed and registered in favour of the deceased on 10.08.1968. As per Schedule 'B' available at page 31, the above property left by the deceased is free from all types of liabilities, encumbrances, etc. The attorney of the petitioner and the two witnesses were present in Court on 04.03.2021 when their future presence was dispensed with.

4. I have heard the learned counsel for the petitioner and with his able assistance have also examined the material available on record and the law cited by him at the bar. In the Shia Law of inheritance, the heirs are divided into two classes viz. heirs by consanguinity i.e blood relations, and heirs by marriage i.e husband and wife. For the purpose of determining the shares of heirs, they are divided into two classes viz. 'Sharers' and 'Residuaries'. Unlike the Sunni Law of inheritance, there is no separate class of heirs as 'Distant Kindred' in the Shia Law of inheritance. The present petitioner, being the real sister and an heir of the deceased by consanguinity, falls within the class of sharer. As there is no other legal heir of the deceased and the petitioner is her sole surviving heir, she has inherited the entire property / estate of the deceased, one-half as sharer and the residue by Return / *Radd*. The cases cited and relied upon by the learned counsel support the above view.

5. Notice of this petition was published in Urdu daily 'Jang' Karachi on 01.02.2021, and was also affixed on the Court Notice Board. As per the report submitted by the Deputy Registrar (O.S.) on 18.02.2021, no objection whatsoever has been received from any quarter. Since all the formalities have been completed as per Rules, there appears to be no impediment in the grant of the Letters of Administration in the name of the petitioner. In view of the facts and circumstances of this case, particularly the advanced age of the petitioner, a request has been made on her behalf that she may be allowed to deposit the original title documents of the subject immovable property as surety. As this is a non-contentious matter, the above request is allowed subject to the condition that in addition to the deposit of the original title documents of the subject immovable property as surety, personal bonds to the extent of the valuation of the said property disclosed in the schedule (page 27) shall be executed by the petitioner / her attorney and two respectable persons who shall be tax payers.

6. Subject to the above condition, let the Letters of Administration be issued in the name of the petitioner as per Rules. The instant petition is allowed in the above terms.

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