

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
SMA No 202 / 2010

Date Order with signature of Judge

Petitioner: Mst. Uzma Qateel through Mr. Muhammad Rafi Advocate.

Applicant: Sultan Ahmed Saeed through Mr. Mirza Nazim Beg Advocate.

- 1) For hearing of CMA No. 677/2013.
- 2) For hearing of CMA No. 678/2013.
- 3) For hearing of CMA No. 679/2013.

Date of hearing: 05.03.2018.
Date of order: 05.03.2018.

Muhammad Junaid Ghaffar, J. These three applications have been filed by one Sultan Ahmed Saeed through his attorney / brother under Section 383 of the Succession Act, 1925 for Revocation of the Letter of Administration.

Learned Counsel for the Applicant has contended that the property in question at serial No. 1 of the Schedule i.e. Plot No. 15, Category-D, Block / Sector 3 admeasuring 1000 square yards situated at Shah Faisal Colony, Karachi was purchased from its original allottee Munshi Muhammad Umar Khan on 21.3.1979 and somewhere in 2013 on a visit it transpired that some tenant is holding possession on behalf of the Petitioner. Per learned Counsel when a newspaper advertisement was published for transfer of the plot pursuant to Letter of Administration the Applicant has filed this application as according to him the plot is still owned by the Applicant. Learned Counsel has also referred to order dated 29.2.2016 as well as letter dated 2.5.2016 issued by KMC Land

Management Department and submits that the transfer in the name of the Applicant has been confirmed as genuine. In such circumstances, he has prayed that the Letter of Administration granted vide order dated 26.4.2011 may be set aside and revoked.

On the other hand, learned Counsel for the Petitioner has contended that the application is not maintainable as the Applicant is not a legal heir, whereas, per learned Counsel before issuance of Letter of Administration the entire process was followed and completed including publication in the newspaper and therefore, the stance of the Applicant that he came to know through publication regarding this Letter of Administration is false and misconceived. He further submitted that Applicant had also filed a Suit bearing No. 79/2014 seeking cancellation of documents and therefore, listed applications are not maintainable. Per learned Counsel present proceedings have been filed through an attorney by the Applicant whereas, the Applicant way back in 1992 had sold the property to the deceased father of the Petitioner and such transfer was affected on 21.3.2002 in the records of KDA which is not in dispute. In these circumstances, learned Counsel has prayed for dismissal of all these applications.

I have heard both the learned Counsel and perused the record. The entire case as set up by the Applicant is premised on the fact that property was owned by the Applicant and was not sold to the deceased father of the Petitioner. I am afraid this aspect of the case is not within the domain of these proceedings, whereas, at the very outset, I had confronted the learned Counsel for the Applicant to produce the original ownership / transfer letter of KMC / KDA in the name of Applicant to which the learned Counsel submitted that the same has been lost and for which a police report has been filed on 19.3.2013. This creates serious doubts on the authenticity and genuineness of the Applicant's claim. It is

not in dispute that as per record of KDA as of today the plot is in the name of the deceased father of the Petitioner and such transfer was executed by the last transferee / mutatee Sultan A. Saeed who is the Applicant before the Court and this was done on 21.3.2002.

It is a matter of record that original transfer letter was produced before the Court at the time of process of this Succession Petition before the Deputy Registrar (O.S.) of this Court. It is the claim of the Petitioner that previous transfer orders are also in possession which has not been disputed but it is claimed that same has been misplaced and for such a police report has been lodged. It is pertinent to note that the police report is of the year 2013 by which time the plot had already been sold to the deceased father of the Petitioner and stood transferred as way back as in 2002. Therefore, it does not appear to be logical stance taken by the Applicant that this property was not sold.

Insofar as the confirmation of KDA vide letter dated 2.5.2016 is concerned, the same also does not help the case of the applicant in any manner. It is only confirming that the Transfer letter in the name of applicant is genuine and to that there is no dispute nor could the petitioner raise such objection as the plot in question was purchased from the applicant by the petitioner's deceased father. It nowhere confirms that it still is in the name of the applicant. Therefore, the reliance placed on such letter is misconceived.

Even otherwise, if the Applicant had any grievance against the Petitioner the appropriate remedy does not lie in this Succession Petition which already stands granted and is not a dispute between legal heirs within the domain of this Succession Petition nor it has been supported by the concerned department that when this Petition was granted the property was not mutated in the name of the deceased father of the Petitioner. It appears that the Applicant has already chosen some other

remedy and therefore, these applications appear to be misconceived and for this by means of a short order on 05.03.2018 all listed applications were dismissed and these are the reasons thereof.

J U D G E

ARSHAD/