

**HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD**

R.A. No. 78 of 2024

[Baby Ganwa and others v. General Public at Large & others]

Petitioner : Baby Ganwa and others through Mrs. Razia
Ali Zaman advocate

Respondents : General Public at Large and others
Nemo

Date of hearing
& Order : 22.04.2024

ORDER

YOUSUF ALI SAYEED, J. - This Civil Revision Application impugns the Order dated 06.02.2024 made by the learned 7th Assistant Sessions Judge, Hyderabad, dismissing Succession Application No. 23 of 2024 filed in respect of the estate of late Haji Mallah, being the former husband of the Petitioner No.4.

2. Apparently, the aforementioned Succession Application was filed by the Petitioner No.4 for the benefit of the Petitioners Nos. 1 to 3, being the minor children of the deceased, with a perusal of the impugned orders reflecting that the proceeding came to be dismissed in view of the fact that the Petitioner No.4 was not eligible for pensionary benefits in view of having obtained a khullah from the deceased and as an earlier Succession Application, bearing No. 62 of 2021, had already been granted in favour of the mother of the deceased by the Additional District Judge, Hala, vide an Order dated 01.10.2021.

3. The operative part of the Order made by the learned Additional District Judge, Hala reads as under:-

“In this case two minor daughters of the deceased i.e. Baby Muskan and baby Aisha are residing with their real mother i.e. respondent No.04 while Ghanwa is residing with applicant, therefore, I am inclined to appoint Accountant of District Court as commissioner for collecting the amount from the concerned bank (as per their report), and the heritable service benefits of the deceased from the Ministry of Information and Broadcasting Karachi as per report NO.7-2/2018-E dated 20.08.2021 and any other relevant record as well, and to deliver the share of applicant to her through cross cheque, however, the shares of minors i.e. respondents No.05 to 07 shall be invested in any profitable scheme of National Savings Centre till they attain the age of majority then their respective shares shall be paid to each of them through cross cheques, in the meanwhile applicant being legal may receive the profit from deposits of minor baby Ghanwa, and shall expend the same for her welfare. So far as the profit of minors i.e. respondents No. 05 & 06 is concerned the same would be received by their legal guardian with same said condition. Let the succession certificate be issued.”

4. Under the given circumstances, no illegality or material irregularity is discernible in the matter, as regards the impugned Order dated 06.02.2024, with the underlying proceedings not being maintainable in the absence of any revocation of the certificate earlier granted in favour of the mother of the deceased. On query posed, learned counsel was at a loss to advance any cogent argument in that regard, and merely fell back on the plea that the question of guardianship of all three minors had been resolved in favour of the Petitioner No.4 since the time that the grant had been made. Even if that be so, it is apparent that the cause ought to have been advanced within the scope of the earlier proceeding, and the subsequent Petition did not lie. Furthermore, this Revision is itself incompetent in the presence of remedy by way of appeal available under Section 384 of the Succession Act, 1925.

5. In view of the foregoing, the Revision stands dismissed accordingly, along with the pending miscellaneous applications.

JUDGE