

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Succession Appeal No. S – 03 of 2022

Date of hearing	Order with signature of Judge
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Hearing of case

1. For orders on office objection at flag 'A'
2. For orders on CMA No.305/2022 (Ex.A)
3. For hearing of CMA No.528/2022 (1 R 10(2))
4. For hearing of main case
5. For hearing of CMA No.306/2022 (S/A)

10.02.2025

Mr. Muhammad Qayyum Arain, Advocate for Appellant
Mr. Ghulam Abbas Kuber, Assistant AG Sindh

ORDER

ZULFIQAR AHMAD KHAN, J;- Learned counsel for the appellant states that the appellant was issued Succession Certificate in respect of the property left by his deceased brother Sultan Ahmed. The descriptions of the properties are given in Para No.4 of the order passed by the concerned trial Court, through which letter of administration No.294/2020 was granted. Counsel states that in the said letter of administration, the appellant chose not to press the claim in respect of the properties listed at Serial No. (b) bearing Flat No.F-211, Tower-F, Bahria Town, Karachi as well as Serial No.(f) bearing Plot No.7/34-G, Residential Sector in Bahria Enclave, Islamabad, as no response was forthcoming from the concerned developer. Not only so, Counsel states that the appellant, through impugned order, has already been directed to furnish security / surety in the sum equivalent to the value of the properties mentioned in Para No.9 of the subject order as well as a PR bond. Counsel states that since the appellant has no resources to furnish the required security / surety in the equal sum, the appellant chose not to press the claim in respect of the properties mentioned at prayer clauses (b) and (f) and challenged the subject order by filing an application for recalling the order, which application, however, was dismissed by the concerned Court by the impugned order dated 08.02.2022.

Counsel states that on account of such a harsh finding in the said order, the legal-heirs of the deceased still have not been able to have the properties transferred / mutated in their favour as per law. As the requirement of furnishing security / surety in the sum equivalent value of the property is held through various judgments to be harsh and impractical and learned counsel requests the said condition to be replaced by furnishing title documents of the property from the developers.

In the circumstances at hand, learned Assistant Advocate General suggests that matter may be remanded to the concerned Court to rehear the application afresh after calling the records pertaining to the property (b) and (f) also, and ensuring that the representative of the said concerned developer / society are present along with the relevant record, so that a fresh succession letter could be issued in accordance with the law, as well as the requirements as to furnishing of security / surety be reduced to the extent of keeping any existing original title documents having been received from the concerned developer / society or from the applicant (if in his possession) and to let the succession process proceed in accordance with the law. Counsel admits that if any sums are to be paid in respect of maturing mutation / title of the deceased in respect of any property(ies), the appellant or other legal-heirs would provide the outstanding amount to the developers / society. In the circumstances, this appeal is allowed in above terms and the impugned order dated 08.02.2022 is set-aside. The trial Court is directed to rehear and decide the matter afresh within two months hereof.

Judge

ARBROHI