

IN THE HIGH COURT OF SINDH AT KARACHI

Misc. Appeal No.40 of 2025

Present

Mr. Justice Muhammad Jaffer Raza

Sohail Baig Appellant

Versus

Public at Large Respondent

Mr. Tariq Ahmed Memon along with Mr.
Muhammad Rizwan, Advocates for the Appellant.

Date of Hearing: 29.05.2025

Date of Order: 29.05.2025

ORDER

Instant Misc. Appeal has been preferred by the Appellant under Section 299 and 384 of the Succession Act, 1925 (the Act), impugning the order dated 21.01.2025, whereby, learned IV-Additional District Judge, Karachi East, dismissed the application for grant of letter of probate in SMA No.14 of 2024.

Brief facts of the case are that the Appellant filed application for grant of probate under Section 276 of the Act. Thereafter, vide impugned order the said petition was dismissed.

It is contended by the learned counsel for the Appellant that the petition was dismissed primarily on the ground that the Appellant earlier did not file necessary proceedings/Application under the Sindh Letters of Administration and Succession Certificates Act, 2021 (Sindh Act No.VII of 2021). Secondly, learned counsel stated that the learned IV-Additional District Judge, has dismissed the petition on the ground that two separate names pertaining to the Appellant appeared in the NADRA record. He has further contended that such clarification was made vide statement dated 17.02.2024, which was filed before the learned IV-Additional District Judge. Learned counsel has submitted that the said clarification

regarding the name of the Appellant was made but not duly considered by the learned Presiding Officer. Further he has argued that the application of Sindh Act No.VII of 2021 does not pertain to grant of letter of probate.

2. I have heard the learned counsel for the Appellant and perused the record. It is evident that the petition filed by the Appellant was under Section 276 of the Act for grant of probate and not under Section 278 of the Act for grant of Letter of Administration and Succession Certificate. I have also examined the Sindh Act No.VII of 2021 and the same strictly pertains to the grant of Letter of Administration and Succession Certificate. The said act has no provision for grant of letter of probate, which can only be dealt with Section 276 of the Act. The learned IV-Additional District Judge, East Karachi, has incorrectly applied the provision of Section 10 of the Sindh Act No.VII of 2021 and erroneously declined jurisdiction.

3. In the light of what has been held above, the impugned order is hereby set-aside, consequently, instant appeal is allowed with the direction to the learned IV-Additional District Judge, East Karachi, to decide the petition within thirty (30) days from today, excluding the summer vacations, and consider the statement dated 17.02.2024 referred to by the counsel for the Appellant.

Accordingly, instant Misc. Appeal is allowed in the above terms.

J U D G E

Nadeem