

ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Civil Misc.Appeal No.S-02/2019

Date of hearing	Order With Signature Of Judge.
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Fresh Case

For hearing of main case.

12-04-2019

Mr. Muhammad Ibrahim Z. Gambhir Advocate for the Petitioner.

ORDER

ZAFAR AHMED RAJPUT J., Ghulam Shabir Memon, the appellant's husband died on 24.04.2018 as issueless leaving behind him as his surviving legal heirs, the appellant (widow), Abdul Rasheed, Abdul Samad, Javed Ahmed (brothers), Mst. Fozia, Mst. Faiza and Mst. Maria (sisters). In his life time, he maintained two bank accounts, one in Khushali Microfinance Bank and other in National Bank of Pakistan Pir-jo-Goth branch. He also purchased Terms Deposit Certificate of Rs. 4,50,000/-. After his death, the petitioner filed Succession Petition No. 310 of 2018 under Section 372 of the Succession Act, 1925, which was allowed by learned Additional District Judge-II, Khairpur vide order dated 13.03.2019 by directing the Accountant of the Court to collect all the dues and security from the concerned banks and disburse the same amongst the legal heirs of the deceased as per their respective share. It is against the said order, instant appeal has been preferred by the appellant.

2. Learned counsel for the appellant has contended that the impugned order being illegal is not sustainable under the law as the petitioner being "Nominee" was solely entitled for the "Tarka" left by her deceased husband, therefore, same could not have been ordered to be distributed amongst the other legal heirs/brothers and sisters of the deceased.

3. In the case of Malik SAFDAR ALI KHAN and another versus PUBLIC-AT-LARGE and others **(2004 S C M R 1219)**, the Hon’ble Supreme Court has held that “*nomination cannot override provisions of Islamic Law of Inheritance*, therefore, no legal heir could be deprived from receiving their respective share.

4. Accordingly, this appeal being devoid of any legal merit is dismissed in limine.

JUDGE

Ahmad