

SMA No. 327/2017

IN THE HIGH COURT OF SINDH AT KARACHI

H.C.A. No. 270/2017

Dated: 12.09.2019.

From,

Assistant Registrar  
Civil Appellate Branch

To,

The Assistant Registrar,  
Execution Branch

**Subject: CIVIL APPEAL NO. 18-K OF 2019**

(Haji Jan Mohammad & others

Versus

Muslim Commercial Bank Ltd. & others.)

On appeal from the Judgment/Order of the  
High Court of Sindh, Karachi, Dated 24.12.2018,  
In H.C.A. No. 270/2017.

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I am directed to forward herewith a photocopy of certified copy of Order dated: **03.09.2019**, passed by the Hon'ble Supreme Court of Pakistan, Registry Karachi in the above matter for information & necessary compliance in **SMA No. Nil/2014**.

*I am also to invite your attention to the directions of Hon'ble Supreme Court contained in the enclosed Order, for necessary action.*

The Receipt of this letter alongwith its enclosure may kindly be acknowledged.

*S* 12/09/19

*[Signature]* 12/9/19  
Assistant Registrar  
Civil Appellate Branch

Encl:  
As above.

*[Signature]* 12/9/19  
etc

Phone: 9212310.

NO: C.A 18 - K OF 2019  
SUPREME COURT OF PAKISTAN

Karachi, the 06<sup>th</sup> Sep., 2019

From:

The Senior Court Associate,  
Supreme Court of Pakistan,  
M.R. Kayani Road,  
Karachi.

To,

The Registrar,  
Hon'ble High Court of Sindh,  
Karachi.

1233  
INWARD TO  
BRANCH Civil Appellate  
DATE 11/09/19  
HIGH COURT OF SINDH AT KARACHI

SUBJECT:- CIVIL APPEAL NO: 18 - K OF 2019  
(Haji Jan Muhammad & others Vs.  
Muslim Commercial Bank Limited &  
others)


On appeal from the Judgment/Order of  
the High Court of Sindh, Karachi. Dated  
24-12-2018, in H.C.A No.270/2017.

In continuation of this Courts letter of even number dated:  
11-04-2019, I am directed to enclose herewith for information and necessary  
action a certified copy of the Order of this Court dated:03-09-2019, Allowing  
the above-cited Civil Appeal.

2. I am also to invite your attention to the directions of this Court  
contained in the enclosed Order, for necessary action.

3. I am further directed to return herewith the original record of the  
High Court of Sindh Karachi, received in this Court under cover of your letter  
No:HCA-270/2017, dated:23-04-2019. The receipt of this letter along-with its  
enclosure may kindly be acknowledged.

Encl:- 1. Certified copy of Order.  
2. Original R & Ps. of H.C.A No.270/2017.

  
(**SYED ZAFAR ALI**)  
Sr. Court Associate  
ced.

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

PRESIDENT:

MR. JUSTICE MUSHIR ALAM  
MR. JUSTICE FAISAL ARAB  
MR. JUSTICE SAJJAD ALI SHAH

CIVIL APPEAL NO. 12-K OF 2019

(On appeal against the judgment dated 24.12.2018 passed by the High Court of Sindh, Karachi in High Court Appeal No. 270/2017)

Haji Jan Muhammad and others ... Appellants

VERSUS

Muslim Commercial Bank Ltd and others ... Respondents

For the Appellants: Mr. Asim Mansoor Khan, ASC  
Mr. Ghulam Rasool Mangi, AOR

For the Respondent (1): Mr. Mansoor-ul-Arifin, ASC  
Mr. K.A. Wahab, AOR

Date of Hearing: 03.09.2019

ORDER

MUSHIR ALAM, J.- The appellants have impugned the order dated 24.12.2018 whereby the learned High Court allowed the High Court Appeal filed by the respondent Bank and set aside the order dated 27.04.2017 of the learned Testamentary Judge whereby the respondent Bank was directed to provide statement of accounts to the appellants with effect from 1997 to 21.02.2014 of late Haji Abdul Razzaq son of Haji Yaqoob in respect of the account maintained with the respondent Bank.

2. Learned counsel for the appellants states that the statement of bank account is required to be filed for the purposes of obtaining succession certificate.

3. Mr. Mansoor-ul-Arifin, learned counsel for the respondent, when confronted as to what is the impediment in issuance of bank account statement, he states that such statement of accounts has already been filed in other proceedings pending before the Court and was provided to the appellants. On the other hand, Mr. Asim Mansoor states that the said statement of accounts is upto 1997 whereas appellants are seeking

**ATTESTED**

Senior Counsel Asst. Secy  
Supreme Court of Pak.  
Karachi.

such statement from 1997 onwards. Mr. Mansoor-ul-Arifin was not able to show us any prohibition under the law for not providing such statement of accounts to the legal heirs of the deceased for the period asked for. Learned counsel states that since there was no transaction, no entry is available. It may be observed that if there is no transaction, such may be reflected in the statement of account. Respondent Bank is custodian and trustee of Bank account that was maintained by the deceased customer and is liable to disclose all credit and debit entries in the account of deceased to enable legal heirs to claim any amount lying therein. In the testamentary jurisdiction indeed Court does not entertain contentious issues unless such proceeding on basis of contentious matter is converted and treated as a suit. Even under BPD Circular No.08/2006 dated 24.07.2006, in terms of para 2(b), Bank is obliged "*to dispatch free of charge and irrespective of amount of balance in the accounts of depositors/customer*" (page 64). Since the appellants are legal heirs of the deceased customer, they are also entitled for the same.

4. Under the facts and circumstances of the case, we allow this appeal, set aside the impugned judgment, restore the order of learned Single Judge dated 27.04.2017 and direct the respondent Bank to provide duly certified statement of account to the appellants for the period as directed by the learned Testamentary Judge within a period of ten days from today.

Sd/= Mushir Alam, J  
Sd/= Faisal Arab, J  
Sd/= Sajjad Ali Shah,



Karachi, the  
3<sup>rd</sup> of September, 2019  
Not Approved For Reporting

KS/Supreme/18-K/2019

27/9/2019

CERTIFIED TO BE TRUE COPY

Senior Court Associate  
Supreme Court Pakistan  
Karachi