

Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI

Misc. Appeal No.24 of 2026
[*Lubna Ayub and another vs. Faisal Ayub*]

Appellants : Through Mr. Mujtaba Sohail Raja, Advocate
Respondent : Through Haseeb Jamali along with Mr. Muzamil Hussain Jalbani, Advocates.
Date of Hearing : 09.03.2026
Date of Order : 09.03.2026

ARSHAD HUSSAIN KHAN, J. Through this Misc. Appeal filed under Section 299 Of the Succession Act, 1925, the appellants have called in question the Order dated 21.02.2026, passed by the IX Additional District & Sessions Judge, Karachi [East] in SMA 413 of 2025, whereby Application under Section 263 of the Succession Act, 1925, filed by the present appellants, seeking recalling and revoking Letters of Administration granted on 17.12.2021, was dismissed.

2. As background of the present matter, Mst. Parveen Ayub expired on 26.04.2018 at Karachi leaving behind three legal heirs, namely; Lubna Ayub, Faisal Ayub and Omer Ayub. Lubna Ayub thereafter filed Succession Miscellaneous Application No.510 of 2021 before this Court seeking Letters of Administration in respect of the estate of the deceased, which was granted, vide order dated 17.12.2021. Subsequently, on the application of Faisal Ayub, this Court, vide consent order dated 31.10.2022, directed the Nazir to ensure mutation/transfer of the scheduled properties in the names of all legal heirs. Thereafter the SMA was transferred to the District Court and was registered as SMA No.413 of 2025. Then, on 30.09.2025, Lubna Ayub filed an application under Section 263 of the Succession Act, 1925, seeking revocation of the Letters of Administration on the basis of certain alleged gift deeds executed in her favour by the deceased. The said revocation application was dismissed by the learned court below, vide the impugned order, holding that no “just cause” within the meaning of Section 263 of the Succession Act, 1925, had been made out and directing the Nazir to proceed with mutation of the properties in terms of the earlier consent order. Hence, the present Miscellaneous Appeal.

Today, learned counsel for the respondent has filed counter affidavit to the main appeal as well as the application under Order XLI

Rule 5, Read with Order 39, Rules 1 & 2 CPC and the Vakalatnama, which are taken on the record. Upon receipt copies of the same, learned counsel for the appellant submits that he does not wish to file any rejoinder and is ready to argue the matter.

3. Learned counsel for the appellants, while reiterating the contents of the appeal, has argued that the impugned order dated 21.02.2026 is based on an incorrect interpretation of Section 263 of the Succession Act, 1925. He has submitted that the respondent has never denied the execution or existence of the testaments and has only resisted their implementation on the ground of estoppel against Appellant No.1. It was further argued that the learned court below wrongly adopted a restrictive interpretation of “just cause” under Section 263. He has also contended that the finding regarding invalidity of the testaments due to non-registration is incorrect, as gifts under Muslim law are governed by Section 129 of the Transfer of Property Act, 1882 and do not require registration if completed through offer, acceptance, and delivery of possession. He has further submitted that the doctrine of approbation and reprobation was wrongly applied since proceedings under the Succession Act are summary in nature and do not determine questions of title. Lastly, it was argued that the order dated 31.10.2022 could not be treated as a final judgment between the parties and it was prayed that the impugned order be set aside and the application under Section 263 of the Succession Act be allowed. He has relied upon the cases reported as *Mst. Anita Anam vs. General Public and another* [2025 SCMR 579] and *Jam Pari vs. Muhammad Abdullah* [1992 SCMR 786].

4. Learned counsel for the respondent, while reiterating the contents of his counter affidavit to the main application, has opposed the appeal and supported the impugned order, contending that the application under Section 263 of the Succession Act was not maintainable as the appellants had failed to demonstrate any “just cause” for revocation of the letter of administration. He has submitted that the matter regarding distribution of the estate had already been settled through the consent order dated 31.10.2022, passed by this Court, whereby the appellants themselves had raised No Objection to mutation of the properties in the names of all legal heirs. It is argued that having consented to the said order, the appellants are estopped from resiling from their earlier stance and cannot be permitted to reopen the concluded matter. He has further maintained

that under Muhammadan Law the estate of a deceased Muslim vests immediately in all legal heirs, therefore, the respondent, being one of the heirs, is entitled to his lawful share in the inheritance. He thus prayed that the appeal, being devoid of merit, be dismissed. Learned counsel has relied upon the cases reported as *Syed Ali Ahmed Shah vs. Syed Shoukat Hussain Shah and others* [2025 SCMR 361], *Mst. Shahida Perveen vs. Namatullah Khan and 2 others* [2008 CLC 47] and *Ghulam Ali and 2 others vs. Mst. Ghulam Sarwar Naqvi* [PLD 1990 SC 1].

5. I have heard learned counsel for the parties and have carefully examined the record as well as the impugned order.

The controversy in the present appeal pertains to the scope of Section 263 of the Succession Act, 1925, which empowers the court to revoke or annul a grant of Letters of Administration only upon the existence of “just cause”. Such just cause ordinarily relates to circumstances such as fraud, concealment of material facts, misrepresentation, or discovery of new and material circumstances rendering the grant defective.

6. The record reflects that the Letters of Administration were granted by this Court on 17.12.2021 in a non-contentious proceeding wherein all legal heirs of the deceased, including the present appellant, were present and none raised any objection. The alleged gift deeds, which are now being relied upon by the appellant, were admittedly not disclosed at the time when the succession petition was filed and decided. The appellant, having participated in the proceedings and having allowed the grant to be made without objection, cannot subsequently seek revocation on the basis of documents, which were within her knowledge but were not brought before the court at the relevant time. Such omission cannot be treated as “just cause” within the meaning of Section 263 of the Succession Act, 1925.

7. The record further shows that subsequent to the grant of Letters of Administration, proceedings were initiated before this Court wherein the appellant personally appeared and, through her counsel, consented to the order dated 31.10.2022 whereby transfer and mutation of the scheduled properties in the names of all legal heirs was directed. The said order was passed with the consent of the parties and attained finality. In such circumstances, the learned court below rightly held that the appellants,

having voluntarily consented to the said arrangement, is estopped from resiling from her earlier stance and cannot be permitted to reopen the matter through the present application.

8. As regards the reliance placed upon the alleged gift deeds, the learned court below while considering the said contention has rightly concluded that the documents relied upon by the appellant do not create a valid ground for revocation of the letters of administration. In any event, proceedings relating to grant or revocation of Letters of Administration are summary in nature and do not finally determine questions of title to the property. The impugned order, therefore, does not suffer from any illegality or jurisdictional defect warranting any interference by this Court.

9. The legal position is that a grant of Letters of Administration under the Succession Act, 1925 can be recalled only on demonstration of “just cause,” such as fraud, concealment of material facts, or discovery of new material circumstances. A party who has consented to implementation of orders regarding mutation of properties, or participated in the proceedings without objection, is estopped from seeking revocation. In the present case, the appellants have established no such just cause or bona fide ground, and the impugned order dismissing their application under Section 263 is legally sound.

10. In view of the foregoing discussion, the appellant’s reliance on the cited case law is of no avail in the present matter. Consequently, the present appeal, being devoid of merit, is dismissed along with pending application, if any, and the impugned order dated 21.02.2026 is maintained.

It is clarified that any observation made herein above is only for the purposes of deciding the present matter and shall not prejudice or influence the court(s) while adjudicating any other case(s) between the parties concerning the same subject matter.

JUDGE