

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Miscellaneous Appeal No.25 of 2026

DATE: **ORDER WITH SIGNATURE(S) OF JUDGE(S).**

Hearing / Priority

1. For hearing of Main Case
2. For hearing of CMA No.1718/2026

31.03.2026

Barrister Talha Abbasi, Advocate for the Appellant.

Mr. Shehryar Qazi, Additional Advocate General Sindh.

Muhammad Faisal Kamal Alam, J: Through this Appeal, the Appellant has challenged the Impugned Order dated 24.02.2026, whereby, Application under Section 261 of the Succession Act, 1925 [the ‘Act’], for correction of value of the sole immovable property from Rs. 220 million to Rs. 90 million, in the Letter of Administration, was dismissed.

2. Learned Counsel for the Appellant has referred to the Letter of Administration [page-51] issued by this Court earlier, in respect of sole property- House No.8-B, 4th South Street, South Central Avenue, Phase-II, DHA Karachi, which was subsequently mutated in the name of all the Legal Heirs, vide Mutation Letter of 27th May 2025, issued by the Pakistan Defence Officers Housing Authority [DHA] [page 63, Annexure E/1]. In the appended Schedule of the earlier SMA No. 401 of 2025, the Valuation of the above Property is mentioned as Rs.220 million, which is sought to be corrected [as stated above].

3. Undisputedly, in view of the above, this *LIS* is still a non-contentious matter. The issue has arisen when the Legal Heirs wanted to sell the property and the Sub-Registrar concerned is of the view that he will consider the value of the subject property as Rs.220 Million for calculation of stamp duty and collection of taxes, because said value is mentioned in the Petition earlier filed by the Appellant.

4. Learned Additional Advocate General Sindh, who was present in Court in some other cases, has been requested to assist the Court.

5. The Impugned Order has declined the amendment request, because learned Court is of the view that once the valuation is mentioned in the Petition, which is supported by the Affidavit, then, subsequently, the Petitioner and Legal Heirs cannot resile from the same, *inter alia*, and it can be seen as a motive to evade duties and taxes.

6. The Show Cause Notice is also issued to Mukhtiarkar concerned, who submitted his Report through Nazir about the valuation which ranges from Rs.80 to 90 Million, based on the reason that the structure over the above property is 58 years old and it is the value of a land which is usually considered in such cases [*paragraphs 5 and 6 of the impugned Order*]. Disagreeing with the above valuation, an independent inquiry was conducted by the learned Nazir and according to his Report, the valuation of the subject property is approximately Rs.200 Million. This was considered as a major discrepancy and that is why above action is taken against the Mukhtiarkar.

7. Learned Counsel for the Appellant has referred to Sections 68, 236-C and 236-K of the Income Tax Ordinance, 2001, relating to determination of fair market value of a property and collection of income tax, from seller and purchaser, respectively, as per the relevant Schedule of the above Law. Notification – SRO 1724(I)/2024 dated 29th October 2024 issued in terms of Section 68 [*ibid*] is available at *page-65, inter alia*, mentioning the fair market value of the properties in Defence Housing Authority, for the purpose of collecting the advance income tax. Since the above Property is a built-up situated in Phase-II, DHA, the valuation whereof is Rs.10,200/- per Square Feet [as per Serial 46 of the above Notification].

8. In view of the above, contention of the Appellant's Counsel has substance.

9. The subject property has been mutated in the name of the Legal Heirs and apparently no element of fraud exists. The observation of *mala fide* or tax evasion would be relevant only when the facts of a *LIS* indicate some element of fraud or an amendment sought to be introduced changes the overall nature, complexion of a proceeding, and /or, violative of any statutory provision or public policy. Here neither the ownership nor heirship is in dispute, as the Property now stands mutated in their names, but, the Legal heirs are facing practical problem in selling / disposition of

the Property and distribution of the inheritance from sale proceeds, because the concerned Registering authority would only consider Rs.220 million as the value for calculating duties and taxes [as stated in paragraph 5 of the Appeal].

Secondly, it is a matter of common knowledge, that a built up structure of more than fifty years old, usually, does not fetch a good price, but, obviously this is subject to the other factors, as can be seen from the two different Reports mentioned in the impugned Order.

Thirdly, in view of the above, in such matters, Application under Section 261 of the Act, can be filed for consideration of the Court.

10. Instead of passing the impugned Order of the nature, the Application of the Appellant could have been disposed of by stating that the Registrar and / or Sub-Registrar, or the other concerned Authority while registering the Conveyance / Sale Deed should take into account the FBR Valuation as notified from time to time, in view of the above provisions. To this extent, the learned Additional Advocate General Sindh has no objection.

11. Consequently, this Appeal is accepted and the impugned Order is set-aside, in the terms that the Registrar concerned while registering the Conveyance / Sale Deed, besides completing the other codal formalities, will consider the FBR Valuation [**of the relevant time**] as well as Collectorate Value for assessing duties and taxes, in case the sale price mentioned in the Sale/ Conveyance Deed is less than Rs.220 Million [*supra*].

12. In view of the above, this Appeal stands disposed of along with all pending application(s), if any, but with no order as to costs.

Judge

Riaz / P.S.