

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

MA No.212 of 2024

Date	Order with signature of the Judge
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Hearing / Case.

1. For order on Office Objection.
2. For hearing of main case.

01.04.2026

Mr. Asif Rasheed, Advocate for the Appellant.

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It is an Appeal against the Order dated 19.11.2024, in which, while granting the Letter of Administration in SMA No. 240 of 2024 [the **Subject SMA**], request for relinquishment of share in favour of the Appellant, who was the Petitioner, was declined. The matter throughout has remained non-contentious. Despite publication in the Newspaper (available on record), no one has appeared to raise any objection. The learned Counsel has cited two unreported Judgments of this Court, passed in SMA No.164 of 2015 and SMA No.150 of 2018, copies whereof are available in the present LIS Record, but the same was not considered by the Court, because these Decisions are unreported and request is beyond the scope of the Subject SMA.

2. The undisputed facts are that the Deceased Father (Maqbool Ahmed) of the present Appellant, owned the following Immovable Properties in the Defence Housing Authority [**DHA**]

1. Residential Plot bearing No.92, Sector 7-D, measuring 500 Square Yards (Approx.), DHA City Karachi.
2. Residential Plot bearing No.S-68, Iqbal Lane-10, Phase-VIII-B, measuring 120 Square Yards (Approx.), DHA, Karachi.

3. Residential Plot bearing No.S-75, Ayyubia Staff Lane-6, Phase-VII (Ext), measuring 100 Square Yards (Approx.), DHA, Karachi.
4. Residential Plot bearing No.71/II, Khayaban-e-Iqbal, Phase-VIII-A, measuring 489 Square Yards (Approx.), DHA, Karachi.
5. Residential Plot bearing No.149, Khayaban-e-Arafat, Phase-VIII-E, measuring 1000 Square Yards (Approx.), DHA, Karachi.

3. The above Deceased-Maqbool Ahmed, passed away somewhere in the year 2019 and since there was no Objection, all the above Immovable Properties were transferred in the names of his Legal Heirs, including the Appellant, his Mother Ms. Rahat Naz, two Sisters, namely, Ms. Nida Falak, Sana Falak and the Grandmother-Sultana Begum.

4. Learned Counsel has placed on record all those Mutation Orders as well as the same fact is recorded in Paragraph-4 of the impugned Order.

5. The Grandmother-Mst. Sultana Begum, also passed away and for her share in all these Properties, the Subject SMA was filed, in which the above Order is passed. Learned Counsel has referred to the Affidavits of No Objection of the following Legal Heirs, namely\_

- i. Iqbal Ahmed
- ii. Muhammad Tariq
- iii. Rahat Naz Ahmed
- iv. Nida Falak Ahmed
- v. Sana Falak Ahmed
- vi. Yasmeen Asif
- vii. Muhammad Jawed Ahmed
- viii. Muhammad Naveed
- ix. Aftab Ahmed Soomro

6. The above Affidavits of No Objection, filed by the legal heirs [the **Releasers**] of Sultana Begum (*available from pages-53 onwards*) **except Mst. Nargis Akhter**, who all reside abroad, have given their no objection to the Petition, while relinquishing, releasing and discharging their 1/6<sup>th</sup> undivided shares in favour of the Appellant. All these Affidavits of No Objection are notarized. To further verify the authenticity of these Affidavits, these persons were examined through Video Link by the learned Court (which practice is appreciated), in order to expedite the matter involving the Overseas Pakistanis. This fact is mentioned in Paragraph-7 of the impugned Order, as well as Video Link Reports are also part of the record (*at pages-75 to 79*).

7. The above cited Decisions of this Court along with the Case Files [of the above SMA No. 164 of 2015 and 150 of 2018] are considered. In SMA No.164 of 2015, relinquishment of shares by some of the legal heirs was given effect to, *inter alia*, while granting the Letter of Administration, because those persons had executed separate Relinquishment Deeds duly attested by Pakistan Mission abroad [as those Persons at the relevant time were residing in the United States of America and Netherlands], **whereas**, in SMA No. 150 of 2018, the relinquishment request was given effect to merely on the basis of **formal** Affidavits of No Objection to the main Petition filed by the legal heirs and residuaries, containing a specific paragraph about surrendering and relinquishment of their shares.

8. The reasoning mentioned in the impugned Order for not following the above Case Law is misconceived in nature, untenable and cannot be sustained. It is a settled principle that a judicial precedent of superior courts whether reported or un-reported carry the same weight, force and effect, if

the same is relevant to the controversy under dispute. *Secondly*, our Courts being Courts of record, the authenticity of the un-reported decisions can be checked by examining the Court Case File and now by the other prevalent modes and means. *Thirdly*, the above request of the Appellant with regard to the relinquishment of shares, in the present circumstances, was / is not beyond the scope of SMA, as stated in the impugned Order, but it can be considered.

Now adverting to the main issue at hand, viz. relinquishment.

9. One should be mindful of the fact that in such kind of **non-contentious matters** relating to the distribution of inheritance, in particular, under the Islamic Law of Inheritance, a pragmatic approach is to be adopted by the Courts, specially, to facilitate those persons who reside outside Pakistan.

10. The learned Trial Court in this Case, had examined the legal heirs who sworn Affidavits of No Objection through video link, which practice is appreciated.

Consequently, Two Options are available to the Appellant and the above Releasors.

**Option 1** – the Releasors can send the Deed(s) of Relinquishment duly notarized by Notary Public, so also endorsed and attested by Pakistan Mission [as per the statutory procedure].

**Option 2** – If the above is not possible due to genuine practical reasons, then Deed(s) of Relinquishment can be sent, duly notarized by Notary Public as is done in the case of Affidavit of No Objections filed in the Subject SMA, but specifically stating the reason for not adhering to the

Option 1 [*ibid*]. Since the Releasers have been examined through video link, the documents sent under Option 2 will also be given full effect by the government functionaries and Authorities in Pakistan.

In view of the above, partly the impugned Order is set-aside to the extent of non-considering the unreported judicial precedents of this Court and relinquishment request, whereas the other terms relating to the grant of Letter of Administration, as mentioned in the impugned Order, shall remain intact.

The Appeal is allowed in the above terms.

A Copy of this Decision be communicated to the learned Judicial Officer who has passed the impugned Order.

JUDGE