

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Revision Application No.81 of 2015

(Mahmood-ul-Hassan, Advocate v. Prof. Dr. Syed Misbah-uz-Zafar (Deceased))

DATE: **ORDER WITH SIGNATURE(s) OF JUDGE(s)**

1. For Hearing of CMA No.6487/2015 (Stay)
2. For Hearing of Main Case

16-4-2026

Mr. Mahmood-ul-Hassan, Advocate (Applicant in person)
Mr. Muhammad Hashim Soomro, Advocate for Legal Heirs No.2, 3 & 6 of deceased Respondent No.1

Sana Akram Minhas J: Mr. Muhammad Hashim Soomro, learned Counsel, states that he represents three (3) out of the five (5) legal heirs of deceased Respondent No.1, namely Legal Heir No.(2) [Ms. Kafia Bano], Legal Heir No.(3) [Dr. Syed Aamir Zafar], and Legal Heir No.(6) [Ms. Farah]. He further submits that the Applicant has deliberately provided an incorrect and singular local (Karachi) address for all five (5) legal heirs, despite being aware that they are all residing abroad.

On the other hand, the Applicant (who is an Advocate of this Court and is representing himself), objects that the *Vakalatnama(s)* filed on behalf of the aforesaid three (3) legal heirs of deceased Respondent No.1 have been executed in the USA without the requisite attestation by the Pakistani Consulate/High Commission in the USA. It is contended that, as such, the same are invalid and do not confer any authority upon Mr. Muhammad Hashim Soomro, Advocate to act on behalf of the said legal heirs.

An examination of the Court File reveals that three (3) separate *Vakalatnama(s)* have been filed by the following legal heirs of deceased Respondent No.1:

- Legal Heir No.(2) [Ms. Kafia Bano Zafar, widow of the deceased] – bearing the stamp of “Dolores M. Miele, Notary Public, Connecticut” dated 20.11.2020
- Legal Heir No.(3) [Dr. Syed Aamir Zafar, son of deceased] – bearing the stamp of “Dolores M. Miele, Notary Public, Connecticut” dated 20.11.2020
- Legal Heir No.(3) [Ms. Farah Bano Zafar, daughter of deceased] – bearing the stamp of “Salman Bari Dar, Notary Public, State of New York” dated 24.6.2022

As observed by the Federal Constitutional Court in **Riaz Hussain v. Chairman, Federal Land Commission** (PLD 2026 FCC 22), there is no statutory definition of a “*Vakalatnama*”; however, from a reading of Order 3 Rule 4 CPC with Section 22(3) of the *Legal Practitioners and Bar Councils Act, 1973*, it is understood

as a written authority, duly signed by a party or an authorized person, appointing an advocate to appear and act on their behalf in court.

Under Article 95 of the *Qanun-e-Shahadat Order, 1984*, a presumption of due execution and authentication attaches to a power of attorney executed before and authenticated by, inter alia, a Notary Public, Court, Judge, Magistrate, or a Pakistani Consul or other authorized representative of the Federal Government. In the present case, the three disputed *Vakalatnama(s)* have been notarised by a Notary Public in the USA. Without conceding that a *Vakalatnama* is, strictly speaking, a power of attorney within the meaning of the said provision, even if acts done pursuant to a *Vakalatnama* are, for the sake of argument, viewed through a similar lens, the law as settled by the Supreme Court of Pakistan in **Rahat and Company v. Trading Corporation of Pakistan** (PLD 2020 SC 366) and **S.D.O./A.M., Hasht Nagri Sub-Division, PESCO v. Khawazan Zad** (PLD 2023 SC 174) makes it clear that any defect or irregularity in authorization is curable and may be subsequently rectified or ratified.

It is important to highlight here, the issue before the Supreme Court in **Rahat and Company** (supra) was whether the suit had been validly instituted in the absence of authorization by the Board of Directors of the Rice Export Corporation of Pakistan, and if not, what was its effect. The Court in paragraph 9 has commanded:

9. Indeed, for future guidance of the courts, we hold and direct that if any objection of the nature as encapsulated in the issue under consideration is taken at any stage (i.e., whether in a written statement at the trial stage or in para wise comments or reply filed at the appellate or other similar stage), the court should refrain from straightaway framing an issue or recording an objection in this regard. Experience shows that such objections are, more often than not, frivolous and an abuse of the process of the court, intended only to delay, derail or frustrate consideration of the dispute on the merits.

Office is directed to issue notice to the remaining legal heirs of deceased Respondent No.1, namely, Legal Heir No.(4) [Dr. Nadah, daughter of deceased] and Legal Heir No.(5) [Ms. Imrana, daughter of deceased], at their respective USA addresses. The said addresses are mentioned in a Statement dated 7.4.2025 filed by the Respondents and as reflected in the Amended Title (filed on 7.5.2022) of Suit No.558 of 2007 available on record.

Office shall fix a date **after four (4) weeks**.

JUDGE