

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI
MA No.91 of 2022.

Order with signature(s) of the Judge(s)
Date:

Hg./Priority Case.

1. For Orders on Office Objection a/w reply as at 'A'.
2. For Hearing of CMA No.6575/2022.
3. For Hearing of Main Case.

09th October, 2023.

Mr. Raheel Ali advocate for the appellants.
Mr. Liaquat Ali Awan advocate for Respondents


Precisely relevant facts of the case are that Muhammad Iqbal filed SMA No.304/2015 with the plea that he is the only legal heir of Lal Muhammad, hence, entitle for letter of administration with regard to property viz. House No. A-549, Block-12, ad-measuring 200 Sq. Yards situated in KDA Scheme No. 16, F. B. Area, Karachi. That SMA was allowed, however, Muhammad Yaqoob brother of Lal Muhammad filed application under Section 12(2) CPC claiming therein that Lal Muhammad was issueless and he left brothers and sisters as his legal heirs namely Muhammad Yaqoob, Muhammad Jaffer, Muhammad Sarwar, Muhammad Ibrahim, Khalil, Ali Muhammad, Bismillah and Rabai and others. However, said application under Section 12(2) CPC was dismissed, hence, this Misc. Appeal.

Besides, it has come on record that Muhammad Iqbal filed suit for possession, which was decreed and its appeal is pending before the District court; whereas, Muhammad Yaqoob also filed Suit challenging the claim of Muhammad Iqbal as sole legal heir. It is pertinent to mention that Succession Certificate / Letter of Administration proceedings are only summarily in nature and in case SMA is allowed that cannot be considered as declaration with regard to legal heirs. Appellant has emphasized over Family Registration Certificate of Muhammad Iqbal showing therein that Muhammad Iqbal's mother name is Hajra Begum whereas, counsel for Respondent No.1 present in court also admitted that his mother name is

H

Bashiran and that was tempering by the applicant. Similar position in cross examination in civil suit wherein he has admitted that his mother name is Bashiran. Needless to mention that in succession petition whenever substantial objection is raised with regard to legal heirs, courts are required to convert the same in civil suit and shall be careful while granting succession petition when there is controversy between the legal heirs. Here this is genuine case whereby only civil court can adjudicate the issue between the legal heirs, hence, order whereby letter of administration was allowed is set-aside as well as order dated 26.08.2022 passed on application under Section 12(2) CPC is set-aside and that SMA No. 304 of 2015 is hereby converted into civil suit with direction to civil court to proceed both cases i.e. suit filed by Muhammad Yaqoob and SMA filed by Muhammad Iqbal by amalgamation and shall proceed the lis on merits after hearing all the relevant parties.

In view of above instant Misc. Appeal is allowed.


JUDGE

M. Zeeshan