

ORDER SHEET IN THE HIGH COURT OF SINDH AT KARACHI

Misc. Appeal No. 05 of 2026

Date

Order with signature of Judge

1. For orders on office objection
2. For hearing of CMA No.622/2026
3. For hearing of main case

20.08.2026

Mr. Muhammad Yousuf, Advocate for the Appellant.

This miscellaneous appeal has been filed by the Appellant against order dated 22.11.2025 passed by IVth Additional District Judge, Karachi (East) in SMA No. 685/2020 whereby application filed by the Appellant for release of original title documents of the subject property was dismissed.

The background of the case as narrated in the memo of appeal is that the Appellant, after his wife's death, obtained Letters of Administration in respect of Flat No. A-4, First Floor, measuring 1350 square feet, constructed on residential cum commercial Plot No. A-3/1, Sindhi Para, Shanti Nagar, N.C No. 193, Deh Okewari, Block-19, Gulshan-e-Iqbal, Karachi ("Subject flat") and Guardianship and was permitted by the Family Court in 2022 to sell the Subject Flat on condition that the minors' shares be deposited as Defence Saving Certificates with the Nazir. While he was preoccupied arranging funds, his SMA No. 685 of 2020 was mistakenly shown as dismissed as withdrawn on the statement of a junior counsel, which was later recalled by the Appellate Court in November 2024, reviving the matter to its original position. Two subsequent applications, one for release of the original title documents and one for permission to execute a Relinquishment Deed, were both dismissed by the Additional District Judge on 22.11.2025 without any speaking order. This Miscellaneous Appeal under Section 299 read with Section 384 of the Succession Act, 1925 challenges the unreasoned dismissal as violative of natural justice and Article 10-A of the Constitution.

The learned counsel for the Appellant submits that the Appellant is the husband of the deceased Mst. Naheed Parveen, who filed Guardian & Ward Application No. 2475/2021 in the Court of Family Judge, Karachi (East), which was allowed vide Order dated 22.01.2021, in which it was expressly noted that the Applicant is permitted to sale out property/share of

the minor after depositing equal share of minor in shape of Defence Saving Certificates before Nazir of Family Court. He submits that such share of the minor in shape of Defence Saving Certificates has been deposited. Thereafter an application was moved on 23.09.2024 before the Court of IVth Additional District Judge, Karachi (East) seeking release of title documents of said flat for the purposes of sale along with necessary NOC as letter of administration specifically notes that property shall not be sold till further orders of the said Court. The said application was dismissed vide Order dated 22.12.2025 in view of the fact that one of the legal heirs is minor.

Perusal of the file shows that Letters of Administration dated 9-2-2021 was granted to the Appellant in SMA 685 of 2020 on condition that he will not sell the Subject Flat till further order of the Court of the District Judge Karachi East. Earlier he was appointed guardian of the person of the minors and their property in Guardian & Ward Application No. 2475/2021 by the Court of Family Judge, Karachi (East) vide Order dated 22.01.2021 and was allowed to sell the Subject Flat albeit after depositing the equal shares of the minors in the shape of Defence saving certificate before the Nazir of the said court. Order dated 25.04.2024 passed by the learned Family Judge, Karachi (East) records that share of minor has been deposited by the Appellant in shape of Special Saving Certificates. Therefore, the condition imposed by the Court of Family Judge, Karachi (East) stands satisfied.

The Applicant filed an application in SMA No. 685/2020 for permission to sell the Subject Flat and for release of original title documents for the said purpose which has been dismissed vide the impugned order simply due to the fact that one of the co-owners is a minor without any discussion whether such sale is or is not for the benefit of the minor. The impugned order is therefore a non-speaking order.

In view of the foregoing, matter is remanded to the Court of IVth Additional District Judge, Karachi (East) to hear Appellant's counsel and render judgment afresh with reasons after considering whether property may be sold if it can be demonstrated that it is for the benefit of the minor and whether the Appellant has proved that the sale would be for the benefit of the minor.


JUDGE