

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
 SMA No. 192 / 2017

Date Order with signature of Judge

For hearing of main Petition

23.02.2018.

Mr. Ravi Pinjani Advocate for Petitioner

This is a Succession Petition for Issuance of Letter of Administration under Section 232 of the Succession Act, 1925 in respect of the estate as mentioned in the WILL of deceased Manohar Lal who expired in Karachi on 18.06.2017.

Learned Counsel for the Petitioner submits that no executor was appointed in the WILL and therefore, the Letter of Administration has to be issued under Section 232 of the Succession Act instead of a probate under section 222 *ibid*.

The WILL reflects that the deceased left behind moveable and immovable properties and prescribed the share which is to be devolved on his four legal heirs which are as follows:-

- | | | |
|-----|--------------------------|-------|
| “1) | Meena Manohar Lal Dawani | Widow |
| 2) | Surrendar Dawani | Son |
| 3) | Narendar Manohar | Son |
| 4) | Sidharth Dawani | Son” |

The amended Schedule of the Properties is available at Page 309 onwards, wherein, the details of moveable and immoveable properties have been mentioned. Office has processed this Petition as per rules and all documents have been examined. It further appears that three legal heirs along with witnesses were present on 7.7.2017 and fourth legal heir was in attendance on 4.11.2017. Their attendance was noted and they have been exempted from further appearance.

The Succession Act, 1925, deals with proceedings in respect of Will under Sections 222 and 232 *ibid*. Section 222 of the Act, applies when in the Will the testator appoints an Executor of the Will, and for that a

probate has to be issued for administering the estate, whereas, Section 232 applies when the Will bequeaths the estate to the universal legatees, without any appointment of the Executor. In that case, a Letter of Administration is to be issued, of course subject to fulfilment of all requisite formalities as may be provided. Moreover, it also applies when though an Executor has been appointed but he is legally incapable or refuses to act or has died before the testator or before he/she has proved the Will. It also applies to a situation when the Executor dies after having proved the Will but before he/she could administer all the estate of the deceased. The present petitioner and other legal heirs fall within the meaning and definition of Universal Legatees and are required to prove the contents of the Will. On perusal of the Will it appears that the testator has prescribed the share(s) of all his legal heirs in respect of all of his moveable and immoveable properties and contains directions which are to be followed in its execution and administration of testator's estate. The petitioner and all other legal heirs have satisfactorily proved the contents of the Will, whereas, no one has contested this Succession Petition and the same stands processed in all material terms; therefore, there is no impediment in granting the same. Reliance may also be placed on the case reported as **1989 CLC 1953** [*In Re: Mrs. Homai Minwalla*]

Consequently, this petition is allowed, office to issue Letter of Administration in terms of Section 290 of the Succession Act, 1925, as per rules in respect of the estate as mentioned in the WILL as well as in the Schedule to this petition.

ARSHAD/

J U D G E