

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
**SMA NO. 149 / 2017**

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Date	Order with signature of Judge
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For hearing of main case.

**26.10.2017.**

Mr. Ghulam Mujtaba Phull Advocate for Petitioners.

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Through this Succession Petition under Section 278 of the Succession Act, XXXIX of 1925, the Petitioner has sought issuance of Letter of Administration in respect of the immovable properties mentioned in the schedule of property available at Page 21 which reads as under:-

“Residential Plot bearing Survey No. 138,  
Survey Sheet No. GRW admeasuring 1133  
square yards situated at Garden West Quarters,  
Karachi.

Residential Building / Plot bearing Survey No. 130,  
Sheet G.R.2 the subdivided portion namely the plot  
bearing Survey No. 130/1 Sheet G.R, admeasuring  
1603 square yards situated in the Garden West Quarters,  
Karachi.”

The deceased Aminur Rehman expired on 23.3.2015 leaving behind the following legal heirs:-

- |    |                  |                 |
|----|------------------|-----------------|
| 1) | Zahid Amin       | Son.            |
| 2) | Seema Zahid      | Daughter.       |
| 3) | Zaib Saleem      | Daughter.       |
| 4) | Rashid Amin      | Son.            |
| 5) | Rashid Faheem    | Daughter.       |
| 6) | Sonia Asad       | Daughter.       |
| 7) | Arshad Amin      | Son.            |
|    | (Predeceased)    |                 |
|    | (a) Shazia       | Daughter in law |
|    | (b) Babar Arshad | Grand son       |
|    | (c) Bilal Arshad | Grand son       |
|    | (d) Nayyab       | Grand Daughter  |
|    | (e) Bahroze      | Grand son       |

On 9.10.2017 all the legal heirs were present before the Court along with the witnesses and the Court before granting this Succession has raised an objection regarding entitlement of the share of the legal heirs of predeceased son of the deceased. However, in view of the judgment passed by the Hon'ble Supreme Court in the case reported as ***Mst. Fazeelat Jan and others V. Sikandar through Legal Heirs and others (PLD 2003 SC 475)***, wherein, it has been observed that the judgment passed by the Federal Shariat Court in the case of ***Allah Rakha V. Federation of Pakistan (PLD 2000 FSC 1)***, declaring Section 4 of the Muslim Family Law Ordinance, 1961, being repugnant to the injunctions of Islam upon challenge automatically stands suspended till disposal of the appeal as provided under Article 203D of the Constitution of the Islamic Republic of Pakistan, and till such time the benefit of Section 4 of the Ordinance *ibid*, will be available, the objection is overruled.

Office has placed its report which reflects that the formalities have been completed, whereas, publication has also been made in daily "JANG" dated 22.5.2017 but none has objected.

In the circumstances, there appears to be no impediment in granting this Succession Miscellaneous Application, which is uncontested and accordingly the same is allowed. Office is directed to issue Letter of Administration as per rules against sureties.

**J U D G E**

ARSHAD/