

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**SMA NO.68 OF 2018**

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DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objection NO.1 mentioned at reverse of first page of main petition (flag)

**23-02-2018**

Mr. Muhammad Anwar Tariq, Advocate for the Petitioner.  
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The office has raised an objection that before registering the SMA, the Petitioner to produce a Family Registration Certificate [FRC] that his ordinarily issued by the NADRA to depict a family tree of sorts (next-of-kin) of the applicant (ie., the ones in the database of NADRA). While such FRC is neither exclusive nor conclusive evidence of next-of-kin of the applicant, it nonetheless facilitates the Court in dealing with Succession matters. Learned Counsel submits that a FRC being alien to the requirements of the Succession Act 1925 and the Sindh Chief Court Rules (O.S), its insistence for registering an SMA is unlawful. He places reliance on *Ziauddin's* case (PLD 2012 Sindh 284) in which it was held that unless a doubt arises as to the legal heirs, the insistence on producing a Form 'B' (pronounced *bay form* in the vernacular) in respect of the deceased was uncalled for inasmuch as, such document was not a statutory requirement for an SMA. However, the ratio of the said decision is in the following para : *"If a person before his death has failed to intimate NADRA or fill B-Form, it does not mean that after his death, no succession certificate will be issued to the legal heirs due to non-completion or fulfillment of this only requirement and their right of inheritance will be neither suspended nor snatched away only for this reason alone. However it is for the Court to decide and in case of any reasonable doubts, dispute or contention, it can make necessary inquiry....."*

Form 'B', that lists the children of a person, had been introduced in the early 1970s or so and was generated only if a person had registered his minor children with NADRA (or its predecessor), but if a person had not done so, or a person's children were already adults when Form 'B' had been introduced, no Form 'B' in respect of that person would exist, and to then insist on its production was an unnecessary burden on a

petitioner; hence the decision in *Ziauddin's* case. On the other hand, as highlighted at the outset, a FRC is only an extract of NADRA's existing database, which facility has been made easily available by NADRA to the public. On the query of the Court whether the petitioner had ever even attempted to procure a FRC from NADRA, learned counsel replied in the negative. That in itself makes the petitioner doubtful and becomes cause to insist on a FRC. In these circumstances, while the office may register the petition for its further process, it should not be fixed for hearing until the Petitioner either files a FRC or in the very least demonstrates that he had applied for one but was declined by NADRA.

J U D G E

Talib