

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**SMA No. 180 of 2018**

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Order with signature of Judge(s)

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1. For hearing of main petition  
[DR (OS) Diary dated 16.08.2018]

**30.08.2018**

Mr. Muhammad Amin Memon, Advocate alongwith Petitioner  
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This SMA was filed by the Petitioner on 28.04.2018 in respect of the estate left by her late husband Ali Hussain Mirza, who died on 16.06.2017. When the office raised objection as to the production of the original title documents of the property bearing House built on Plot No.44/1, 25<sup>th</sup> Street, Phase-V, Defence Housing Authority, Karachi, Court was informed that the said property was originally owned by late Kaiser Mirza (NIC No.514-39-010221) father of the deceased Ali Hussain Mirza and was subject matter of SMA No. 10 of 2008, which was duly allowed by this Court on 10.03.2008 and Letter of Administration in respect of the said property was issued which resulted in mutation of the said property in the name of deceased Ali Hussain Mirza, a copy of the said mutation is filed at Page-47 (Annexure-H), issued by Pakistan Defence Officers Housing Authority vide letter dated 13-05-2009.

A report was called from Nazir of this Court, who has filed the same on 19.05.2018. A review of which shows that the mutation in the record of the DHA only took place in the absence of the original title documents of the property in question. File of the earlier SMA No.10 of 2008 is tagged alongwith instant SMA, which shows that on 21.05.2008 Petitioner (deceased Ali Hussain Mirza) was directed to file original documents of the subject property with the Nazir of this Court within two weeks and the Court in clear terms directed the Nazir not to take on record any other document comprising of duplicate and certified copy in respect of the ownership of the property in question. When these orders were not complied with for want of the original title documents Court was informed

that the Petitioner (now deceased) was only in possession of the certified copy of the property documents and since the Petitioner was not able to arrange for surety, permission was granted to Nazir by order dated 26.09.2008 to accept the certified copy. However, when it was brought to the Court's attention that some Person has maliciously changed the value of the property from Rs.20,000,000/- to Rs.5,000,000/- in the Schedule, the Petitioner was directed to furnish title documents of the property in question as surety as well as execute personal bond in the sum of Rs.20,000,000/- with the Nazir of this Court for the grant of letter of administration vide order dated 23.10.2008, which clearly was not provided by late Ali Hussain Mirza, as per the Nazir endorsement dated 13.12.2008, which only affirms that a personal bond was executed by late Ali Hussain Mirza in the sum of Rs.20,000,000/- and certified copy of the subject property's lease was deposited. Thus at no point in time, original title documents of the said property were provided to the Nazir.

Of peculiar concern is the statement of the mother of the deceased which is reflected in the order dated 10.03.2008 passed in SMA No. 10 of 2008 where she stated that she was divorced in the year 1975 by her husband late Kaiser Mirza. Interestingly, late Ali Hussain Mirza was born in the same year on 09.09.1975. From the death certificate attached at Page-15 of SMA No.10 of 2008, late Kaiser Mirza died on 16.02.1999 i.e. 24 years after he having divorced deceased Ali Hussain Mirza's mother, which gives reasons to believe that late Kaiser Mirza might have contracted a second marriage or may have created third party interests in the property which does not reflect anywhere in the record. Also it is noted from the review of SMA No.10 of 2008 that while death certificate of late Kaiser Mirza has been provided, neither Family Registration Certificate of late Kaiser Mirza, nor Form-B of the family is provided, which could have substantiated that late Ali Hussain Mirza was real son of late Kaiser Mirza and/or that there were no other legal heirs.

Now through the instant SMA, Court is moved to mutate the same property in the names of the legal heirs of Ali Hussain Mirza whose inheritance in the said property is shrouded in doubts mentioned hereinabove as to whether he was real son of late Kaiser Mirza or there were no other legal heir of late Kaiser Mirza and was the property in fact available for mutation or not. To answer these questions before any further proceedings be taken in this SMA, let a report be called from NADRA as to the family of late Kaiser Mirza bearing NIC No.514-39-010221, who died on 16.02.1999.

At the request of counsel for the Petitioner Nazir is thus directed to liaise with the NADRA authorities to obtain details of family of late Kaiser Mirza (NIC No.514-39-010221). Nazir also to liaise with DHA and file certified copies of mutation documents from DHA records as well as affirm if late Kaiser Mirza provided any list of his legal heirs. Nazir to do the needful within two weeks.

Mst. Fatima Ali Mirza widow of Ali Hussain Mirza is present, who states that she travels from Lahore and her presence be dispensed with. Unless specifically required by this Court in future, her presence is dispensed with.

To come up immediately after two weeks.

JUDGE