

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
S.M.A. No. 377 of 2018

Date	Order with signature of Judge
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For hearing of main petition alongwith office objection and reply of learned counsel (Flag "A").

19.12.2018

Mrs. Mehmooda Sulleman, advocate for petitioner.

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Petitioner Mrs. Amina Anwar has filed this petition under Section 278 and 372 of the Succession Act, 1925 for the grant of Succession Certificate and Letter of Administration in her name in respect of moveable and immovable properties, described in Schedule of Properties attached to the petition at pages 19 and 21, which were left by her late brother, namely, Muhammad Farooq s/o. Late Muhammad Ishaq ("the deceased"), who died intestate on 09.09.2016 at Karachi, leaving behind (1) Mrs. Asifa Khatoon (widow), (2) Mrs. Amina Anwar (sister/petitioner), (3) Mst. Shehnaz Tabassum (sister), (4) Mst. Shakila Ishaq (sister) and (5) Mrs. Azra Parveen (sister) as his legal heirs. Original Death Certificate of deceased as well as photostat copies of Family Registration Certificate, issued by the NADRA, title documents in respect of immovable property as well as documents in respect of movable properties, bank accounts and Term Deposit Certificates are also filed at as annexures "A and C to E" available at pages 13 to 17 and 27 to 63.

2. Legal heirs No. 1, 3 & 5 have filed their affidavits of no objection for the grant of Succession Certificate and Letter of Administration in favour of the petitioner, while legal heir No. 4 has executed Special Power of Attorney, duly attested by the Notary Public at Karachi in favour of the petitioner.

3. Two witnesses, namely, Javed Sarwar s/o. Ghulam Sarwar and Shaikh Mansoor Ahmed s/o. Shaikh Hafiz Ataullah have also filed their respective affidavits and affirmed that there is no other legal heir of the

deceased except mentioned above. Their affidavits are also available on record. Notice of this petition was published in Daily "Jang" Karachi dated 16.11.2018; however, none has filed any objection to the grant of Succession Certificate and Letter of Administration to petitioner, as per the report submitted by the Deputy Registrar (OS) on 06.12.2018.

4. Learned counsel for the petitioner while responding to legal objection raised by the office contends that the deceased was issueless and left behind him a widow and four full sisters as his surviving legal heirs; as such, they are entitled to inherit whole properties/assets left by the deceased, as per their share according sharia and no one else is entitled thereto. In support of her contentions, she has placed reliance on the case-law reported as 2014 SCMR 1205 (*Saadullah and others Vs. Mst. Gulbanda and others*), PLD 2004 SC 768 (*Abdul Khaliq and another v. Fazalur Rehman and others*) and 2015 CLC 738 (Sindh)(*Mst. Mehrunnisa v. Syed Muhammad Zoha*).

7. Perusal of record shows that the widow and four full sisters are the only surviving legal heirs of the deceased Muhammad Farooq, as at the time of his death he was issueless. Despite publication of notice no other person has come forward to claim himself to be legal heir of deceased in any capacity or to object grant of Succession Certificate and Letter of Administration in favour of the petitioner. In such circumstances, the widow of the deceased is entitled to inherit from the estate of her deceased husband 1/4 of the estate as sharer and remaining 3/4 shall be inherited by the four sisters of the deceased as per sharia, on the doctrine of return (Radd) as mentioned in paragraph 66 of Muhammadan Law by D.F. Mullah.

8. Since all the legal formalities/ requirements have been fulfilled, there is no impediment in grant of Succession Certificate and Letter of Administration to petitioner, therefore, the petition is allowed. The office

is directed to issue Succession Certificate and Letter of Administration in respect of movable and immovable properties as per details disclosed in the Schedule of Properties, as per rules.

J U D G E

Athar Zai