

**IN THE HIGH COURT OF SINDH,  
AT KARACHI**

**Present:**

Ahmed Ali M. Shaikh, CJ  
Yousuf Ali Sayeed, J

**C. P. No. D-2207 of 2007**

For orders as to maintainability of the petition

**28.01.2022**

Mr. Mohsin Shahwani, Advocate for the petitioner.  
Mr. Khaleeq Ahmed, DAG and Mr. Hussain Bohra  
Assistant Attorney General for Respondent No.5  
Mr. Alam Zaib, Advocate for Respondent No.6, State Bank  
of Pakistan.  
None present for Respondents No.1,2,3,4,7,8 and 9

**ORDER**

**AHMED ALI M. SHAIKH, CJ.**- By means of instant proceedings, petitioner seeks following relief(s):

1. Declare that Respondent No.2's official documents, including CNIC bearing No.42301-0948508-5, Passport bearing No.A2761286 showing false information i.e. deceased namely Abdul Rehman as his real father, are illegal and unlawful and thus liable to be cancelled.
2. Direct that Respondent No.4&5 to cancel the CNIC and passport of Respondent No.2 and further initiate criminal proceedings against Respondent No.2 for providing false information while obtaining the documents.
3. Declare that Respondent No.2 being the adopted child of the deceased is neither a lawful heir of the deceased nor entitled to the estate left behind by the deceased.
4. Declare that the act of Respondent No.1 and 2 of illegally transferring the deceased's property stated in Paragraph 08 on the basis of false CNIC without obtaining succession certificate or letter of administration is illegal, unlawful,

unconstitutional without lawful authority and thus *void ab initio*. Resultantly cancel the unlawful and illegal entries bearing No.0602 inserted in the record of rights.

5. Permanently restrain the Respondents from creating third party interest in respect of the estate of the deceased, and further withdrawing of funds from the deceased's banks accounts.
6. Declare that the withdrawal of funds from the bank account of deceased, by Respondent No.1 and 2, without obtaining a succession certificate or a letter of administration was an illegal, unlawful and unconstitutional act and thus return the same.
7. Direct the Respondent No.2 to 8 to provide all relevant information i.e. Banks statements of the said accounts and further direct the respondent No.6 release details of all bank accounts deceased.
8. Costs of the proceedings.
9. Any other additional, further, better and or alternative relief that this Honourable Court may deem fit to grant in the facts and circumstances of the case.

2. Briefly, the case of the Petitioner is that late Abdul Rehman (the "**Deceased**") died intestate and issueless, leaving behind a widow, respondent No.1 herein, Petitioner and other siblings as his legal heirs. It is averred that the Respondent No.2 is the adopted son of the deceased, while Respondent No.3 is his biological/real father. The Deceased left a number of immovable properties and was operating bank accounts, maintained with the Respondents No.7 and 8 commercial banks. Petitioner alleged that the Respondent No.2 in connivance with the Respondent No.1 obtained CNIC showing the Deceased as his real father just to manipulate and usurp the estate left behind by the Deceased.

3. In this context, one of the brothers of the Petitioner and the Deceased, namely, Abdul Wahab, filed a civil suit bearing No.215 of 2012 before the VII Senior Civil Judge Karachi (South) seeking declaration, direction and cancellation of the false CNIC and passport against the Respondent No.2, NADRA and others. However, the trial Court returned the plaint to for its presentation before the proper Court having territorial jurisdiction in the matter. Additionally, sisters of the Deceased filed a suit for administration bearing No.04 of 2014 against the Petitioner, Respondent No.2 and others. The said suit is still pending adjudication.

4. Learned counsel for the Petitioner submitted that the Respondent No.2 is adopted son of the Deceased while Respondent No.3 is his real/biological father. He further submitted that the Respondent No.2 fraudulently, malafidely and illegally obtained CNIC and passport showing the Deceased as his real father. He further submitted that the Respondent No.1 and 2 in connivance with each other have unlawfully withdrawn hefty amounts from the bank accounts and transferred various properties from the estate of the Deceased without first obtaining a letter of administration from the competent Court of law. To a query as to the maintainability of the Petition, counsel submitted that the Petitioner has no other efficacious and alternate remedy for redressal of his grievance.

5. The Learned DAG and Counsel for the Respondent No.6 State Bank of Pakistan also opposed the Petition on the ground of its maintainability in the wake of the controversy being of a completely factual nature.

6. We have considered the contentions raised by the learned counsel for the Petitioner and with his able assistance scanned the record. It seems that through these proceedings the Petitioner seeks cancellation of CNIC purportedly issued by the NADRA showing the Respondent No.2 as son of the Deceased, who is said to have died intestate and issueless. The question whether the Respondent No.2 was adopted by the Deceased though Respondent No.3 is his real/biological father is clearly a question of fact and for such declaration and cancellation of the CNIC and passport the Petitioner ought to approach the civil Court having territorial jurisdiction in the matter. Besides, from the record it appears that one Abdul Wahab brother of Petitioner and the Deceased had already filed a civil suit before the civil Court, the plaint of which was returned for its presentation before the proper forum. Additionally, from the pleadings it appears that a suit for administration in respect of the estate of the Deceased filed by the sisters of the Petitioner against him, Respondent No.1 and others is pending adjudication on the Original Side of this Court.

The aforesaid are the reasons of our short order dated 28.1.2022 whereby we dismissed the Petition.

Chief Justice

Judge