

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
**SMA No. 344 / 2017**

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Date \_\_\_\_\_ Order with signature of Judge \_\_\_\_\_

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- 1) For orders on office objection as flagged.
- 2) For orders on CMA No. 1887/2017.
- 3) For hearing of CMA No. 1886/2017.

**11.12.2017.**

**Mr. Abdul Haleem Jamali Advocate for Petitioner.**

**Legal Heirs Athar Muhammad Zafar, Mrs. Nahid Irfan, Mrs. Mussarat Taufique Lodhi, Mrs. Khurshid Nooruddin, Mr. Kausar M. Zafar, Mrs. Tasnim Akhtar, Mrs. Tahseen Abid Agha, Mst. Mohsina Humayun, Fahad Humayun, Ali Humayun Zafar, Omer Humayun Zafar present in Court.**

1, 2 & 3) Bailiff report reflects that notice could not be served upon NADRA. This is a Succession Petition in respect of the estate of deceased Muhammad Zafar who expired on 28.11.1984 at Karachi leaving behind the following legal heirs:-

- |     |                              |          |
|-----|------------------------------|----------|
| “1) | Athar Muhammad Zafar         | SON      |
| 2)  | Mrs. Nahid Irfan             | DAUGHTER |
| 3)  | Mrs. Ismat Salahuddin        | DAUGHTER |
| 4)  | Mrs. Mussarat Taufique Lodhi | DAUGHTER |
| 5)  | Mrs. Khurshid Nooruddin      | DAUGHTER |
| 6)  | Mr. Kausar M. Zafar.         | SON      |
| 7)  | Mrs. Tasnim Akhtar           | DAUGHTER |
| 8)  | Mrs. Tahseen Abid Agha       | DAUGHTER |
| 9)  | Humayun Zafar (late)         |          |
- Through his legal heirs:-

- |      |                      |         |                 |
|------|----------------------|---------|-----------------|
| i)   | Mst. Mohsina Humayun | (widow) | daughter in law |
| ii)  | Fahad Humayun        | (son)   | grandson        |
| iii) | Saad Humayun         | (son)   | grandson        |
| iv)  | Ali Humayun Zafar    | (son)   | grandson        |
| v)   | Omer Humayun Zafar   | (son)   | grandson”       |

All legal heirs are present in Court expect legal heir No. 3 and 9(iii). To this learned Counsel submits that legal heir No.3 Mrs Ismat Salahuddin is sitting in car outside the Court and because of her illness

she cannot come to the Court room, whereas, legal heir No 9(iii) Saad Humayun is abroad, but both have come before this Court and have filed their affidavits of no objection and have sworn their affidavit before the identification branch of this Court.

In the circumstances, presence of all the legal heirs is recorded and they are dispensed with from further appearance until so ordered. Insofar as the objection of Family Registration Certificate is concerned, it appears that deceased expired in 1984 and such process was not enforced whereas, even otherwise, the Succession Act itself does not require production of Family Registration Certificate or Old Form-“B”. Reliance in this regard may be placed on the case of Ziauddin (Petitioner) PLD 2012 Sindh 284, wherein a learned Single Judge of this Court has been pleased to overrule such objection in the following manner;

8. The above provisions of law make it clear beyond all shadow of doubts that there is no statutory requirement to insist the legal heirs/petitioner to submit Form-B or heirship certificate along with the petition either for Succession Certificate or letter of administration. It is also a fact that before the grant of petition, the court for its own satisfaction not only calls the affidavits of no objection of all legal heirs, affidavits of two witnesses who also appear in court with legal heirs and confirm the veracity of the petition including the list of surviving legal heirs, the Deputy Registrar, also issues citation in the vernacular newspaper for inviting objection not only from legal heirs in order to rule out the possibility of any dispute or contention but also from all creditors and after completion of all codal formalities, the matter is fixed in court for hearing of main petition. However in case of any dispute or contention regarding the parentage or legitimacy and acknowledgment or concealment or suppression of legal heirs by the other legal heirs or in case of more than one marriages of the deceased, the requirement of submitting or summoning Form-B issued by NADRA may be one of the relevant considerations to decide the factum of inheritance and status of actual legal heirs but again this will not be a sole criterion to decide. If a person before his death is 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 enquiry so that rights of deserving person may not be affected and surely this is one of the reasons for which, court grants succession petitions subject to

furnishing of surety as per rules in order to satisfy and cope with any future claim.

The petitioner and other legal heirs present in Court have been examined to this effect and they affirm that there is no other legal heir of the deceased, whereas, heir-ship certificate is also placed on record. In the circumstances office is directed to process this Succession Petition without demanding Family Registration Certificate and shall satisfy itself regarding other aspects including publication whereafter, the matter be placed in Court for orders. Both these applications are allowed and disposed of as above.

**J U D G E**

ARSHAD/