

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**SMA No.98 of 2012**

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Date	Order with signature of Judge
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1. For orders on CMA No. 249/20. (if granted)
  2. For orders on CMA No. 250/20. Alongwith office objections. (for extension of Succession Certificate)
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**12.02.2020.**

**Mr. Ishrat Zahid Alvi, Advocate for Petitioner.**

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1. Granted.
2. Office Objections No.1 & 2 are overruled by way of the following observations and reasons for granting the listed application.

This is an application requesting extension in the Succession Certificate granted vide Order dated 16.04.2013. Learned Counsel for the Petitioner submits that the deceased *Ali Asghar Rajabali* expired on 28.07.2010 in an air crash of Airblue Limited, and now it has transpired that an amount of Rs.5.0 Million against compensation is lying deposited before the Hon'ble Supreme Court in ***Human Rights Case No.22754-S/2018*** and when the Airline, as well as office of the Hon'ble Supreme Court were approached, the legal heirs have been asked to bring a Succession Certificate; hence listed application.

I have heard the learned Counsel and perused the record. The grant or otherwise of an extension of Letter of Administration and Succession Certificate in a Succession Petition filed under the Succession Act, 1925, has now been settled by a learned Division Bench of this Court in the case of ***Muhammad Shafiq: in the matter of PLD 2014 Sindh 541***; however, with the exception, that if and when any such extension is sought and granted; necessary follow up formalities shall, ordinarily be fulfilled and complied with. In that case the issue was in

respect of extension as well as amendment in the petition due to expiry of some of the legal heirs so mentioned in the very petition after grant of the same and pending issuance of Letter of Administration. The learned Division Bench while permitting such extension has put certain conditions to be fulfilled for an extended Letter of Administration including publication and calling of objections. The Court had in fact extended the scope of s.376 of the Succession Act, to mitigate the difficulties of legal heirs of a deceased, by also making it applicable to such situations, wherein, any one or more legal heirs of a deceased in such petition had expired during pendency of such petition, in addition to its applicability to any security or debt, which had originally been left out for any reason whatsoever as provided in s.376 *ibid*.

Insofar as the instant matter is concerned; firstly, though the petition was granted *vide* order dated 16.04.2013, but the moveable assets of the deceased in question were ordered to be administered through the Nazir of this Court; hence, no succession certificate has been issued as yet; and secondly, this is a case of real hardship, as the deceased expired in an air crash, and finally, the airline has agreed to pay compensation and has deposited the same before the Hon'ble Supreme Court. Therefore, I am of the view that while granting such an extension, it would be extremely excruciating, burdensome and unjust, if the legal heirs are asked to go through the said process once again, whereas, in the peculiar facts and circumstances of this case, neither the amount is in dispute; nor there appears to be any other impediment in handing over such amount to the legal heirs of the deceased as this Succession Petition was never opposed by anyone.

Section 376 of the Succession Act, 1925 more specifically deals with such extension of security or debt which has been originally left out

and does not bar granting of such an extension; rather confers discretion on the Court to allow the same as deemed appropriate.

In the case reported as ***Miss Soonabai Hormusji Patel and Mr. Dhunjishaw Hormusji Patel (PLD 1993 Karachi 619)*** a learned Single Judge of this Court in somewhat similar circumstances had the occasion to deal with both situations i.e. an extension of Succession Certificate in the newly discovered securities, as well as the situation when the legal heirs in a Succession Petition had expired after grant of the petition but before distribution of the share. For the present purposes, it is only the former issue which is directly involved in this case. The learned Judge was pleased to observe *“It would thus seem that in so far as the directly inherited share of Nanabhoy Hormasji Patel in the newly-discovered securities is concerned the Succession Certificate can justly and lawfully be extended to include that share. Grant is accordingly made to such extent.”* It was further observed that *“the securities in question do not involve very large amounts. As said, the objection raised, though valid and reasonable, is based largely on a rule of common sense and prudence. It is supported by the spirit if not the letter of law. In appropriate case, therefore, reprieve is possible.”*

I believe the present case is an exception and discretion must be exercised; hence, it is so done. The application is allowed without requiring the Petitioner to effect publication etc. once again. Counsel for the Petitioner shall file an amended Schedule incorporating the claim and compensation to be received from Airblue Limited, whereas, the supporting affidavits for such request are already on record; except one minor, whose affidavit is not required. Once the amended Schedule is placed on record, Office to issue Succession Certificate for this claimed amount upon execution of a personal bond by the Petitioner immediately.

Application stands disposed of.

J U D G E