

IN THE HONOURABLE HIGH COURT OF SINDH AT KARACHI

S. M. A. No. 202 of 2020

In the matter of the assets of the late Asif Aslam Farrukhi

Ghezel Asif Aslam Asif, Health Atty,
Tariq Aslam

Son of the late Muhammad Aslam Farrukhi
Muslim, adult, resident of
B-155, Block 5 Gulshan-e-Iqbal
Karachi

Presented on 05-08-202

[Signature]
Deputy Registrar, C.S.

...PETITIONER

**PETITION FOR GRANT OF SUCCESSION CERTIFICATE AND
LETTERS OF ADMINISTRATION UNDER SECTIONS 372 AND 278 OF
THE SUCCESSION ACT, 1925**



Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI

SMA No. 202 of 2020

Date	Order with signature of Judge
------	-------------------------------

BEFORE:

Mr. Justice Arshad Hussain Khan.

Ghazal Asif & Anusha Asif
through their attorney Tariq Aslam Petitioner

Asif Aslam Farruki
S/o late Muhammad Aslam FarrukiDeceased.

07.10.2020.

Mr. Asad Manzoor Halepota, Advocate a/w petitioner.

ARSHAD HUSSAIN KHAN, J. Through instant SMA, petitioner seeks to grant letter of administration as well as succession certificate in respect of assets, left by deceased namely Asif Aslam Farruki son of late Muhammad Aslam Farruki, who died intestate on 01.06.2020 at Karachi.

2. Although the present SMA was filed in respect of movable and immovable assets of the deceased, however, from perusal of the record, it appears that the petitioner arrayed intellectual properties [IP] right in respect of certain trade-marks and copy rights of the deceased as immovable property, whereas, the IP rights are not tracts of land or component thereof, so they cannot be immovable. Moreover, Salmond on Jurisdiction (Twelfth Edition by P.J. Fitzgerald, M.A.) in Section 111, while discussing what right is to be classed as immovable or as movable, inter-alia, held.....“Similarly all rights over movable are *bona mobilia* themselves. So far there is no difficulty. What shall we say, however, of those rights which have no material objects at all, such as a copyright, a patent, the good-will of a business, a trade-mark, or the benefit of a contract? The answer is that all such rights are classed by the law as movable. For the class of movable property is residuary, and includes all rights which can make good no claim to be classed as immovable.” It is also a settled law that all things, corporeal or incorporeal that the law



PAKISTAN
COURT FEE

does not consider as immovable, are movable. In the circumstances, as discussed above, in my opinion, IP rights, patent rights in invention and copy rights in original creation works are incorporeal movables.

[Emphasis supplied]

3. In the present case, since there appears no immovable property involved, as such present SMA is considered only for succession certificate under Section 372 of the Succession Act, 1925.

4. From the record, it appears that the deceased Asif Aslam Farruki at the time of his death, left behind the following legal heirs:-

S. No.	Name	Relationship with deceased
1	Ghazal Asif	Daughter
2	Anusha Asif	Daughter
3	Taj Begum	Mother
4	Tariq Aslam	Brother

5. Legal heirs at serial No.1 and 2 are the petitioners and daughters of the deceased, whereas, legal heirs from serial No.3 and 4 are mother and brother of the deceased. Both the petitioners have executed Power of Attorney in favour of legal heir No.4 for grant of the present SMA and vide order dated 13.08.2020, passed by this Court, the petitioners were appointed as Guardian of legal heir No.3.

6. The affidavits of two independent witnesses namely, (1) Muhammad Yameen son of Abdul Shakoor and (2) Kashif Ali Khan son of Akhter Ali Khan are available on the record, which support the case of the petitioner. The petitioner, legal heir Ghazal Asif and the independent witnesses present in Court have also admitted and acknowledged the contents of their respective affidavits sworn in support of the present petition.

7. The deceased at the time of his death left behind immovable and movable properties, details where of are mentioned in the Schedule of Properties (at Pages No.23-25). Record also shows that the publication of the main petition has



been effected in "Daily Jang" Karachi dated 27.08.2020, but none has appeared and filed any objection. In this regard a report of Deputy Registrar (O.S.) dated 17.09.2020 is also available on the record.

8. In the circumstances, the matter has emerged as non-contentious one, therefore, in my opinion, there is no legal impediment to grant the present SMA, which is accordingly allowed. Let succession certificate be issued upon furnishing P.R. Bond in the like amount to the satisfaction of Nazir of this Court.

SMA is disposed of in the above terms.



Tahir

Sd/- Abdul Hameed Khan
Judge

CERTIFIED TO BE TRUE COPY

M T 16/10/20
Assistant Registrar (Copying)

M T 16/10/20
Assistant Registrar (Copying)

APPLIED FOR ON	15/10/20
FEE ESTIMATED ON	du
ESTIMATED FEES DEPOSITED ON	du
READY TO BE MADE READY ON	16/10/20
AMOUNTS RECEIVED ON	du
COPY DELIVERED ON	du
COPY DELIVERED ON	du
COPIES DELIVERED ON	du
COPYING FEES	VALUE 04 RS: 58/-
URGENT FEES	PAGE: RS:
COMPILING FEES	PAGE: RS: