

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
SUIT NO. 642 / 2024

Date

Order with signature of Judge

- 1) For orders on CMA No. 9159/2024.
- 2) For orders on CMA No. 9160/2024.
- 3) For orders on CMA No. 9161/2024.

06.06.2024.

Mr. Salahuddin Ahmed, Advocate for Plaintiff.

- 1) Granted.
- 2) This is a Suit for Administration and Declaration in respect of the Estates of deceased Naeem Waris Malik, the father of the Defendants. Learned Counsel for the Plaintiff submits that the deceased Naeem Malik was the real brother of the deceased mother of the Plaintiff namely Shahla Khanum Malik. According to him, the Plaintiff is the only surviving legal heirs of her parents and she professed Shia faith and Fiq-a-e-Jafria as such, as per Shia Law of Inheritance the Plaintiff is the exclusive legal heir of her mother's estate. According to him, in an earlier round of litigation a dispute arose whereby, deceased Naeem Malik during the lifetime of Plaintiff's mother when she was bed ridden transfer a huge amount of money from her account to his accounts on the pretext that he is looking after during her illness. Per learned Counsel, in Suit No. 2037 of 2021 a learned Judge of this Court passed a detailed order dated 10.05.2023 in favor of the present Plaintiff by granting the injunctive relief as prayed for. He submits that said order has never been impugned any further and has attained finality. Per learned Counsel, deceased Naeem Malik then filed Succession Petition before Civil Judge Lahore and by concealing real facts as to Plaintiff being and claiming so as the sole surviving legal heir obtained an order whereby, the said Petition was granted and based on such order he again siphon of the huge amount of money in Bank

Accounts as well as Behboob Certificates. He submits that as soon as it came into the knowledge of the Plaintiff the said order was impugned and vide order dated 12.01.2021 the order passed in the Succession Petition was suspended. He submits that not only this, once again by concealing facts and filing an earlier Succession Petition, the deceased Naeem Malik filed another Succession Petition and once again obtained certain orders whereby, the Petition was granted and as soon as they came into the knowledge of the Plaintiff the Court was approached and once again vide order dated 04.09.2021 the operation of the said order was suspended. Per learned Counsel, before suspension of the orders granting the Succession Petitions deceased Naeem Malik siphon of a huge amount of money belonging to the Plaintiff; hence, the Plaintiff is now a creditor and can maintain a Suit for Administration as provided in Schedule-I Appendix 'D' No. 17 which provides for a preliminary decree in Administration Suit of the creditors. He has also placed reliance on Section 94 of the Trust Act, 1882 as well as Section 218 of the Succession Act, 1925 in support of the Plaintiff's claim in respect of the two properties mentioned in the plaint and the lien on the said properties. According to him, deceased Naeem Malik just immediately before his death and knowingly that the Plaintiff has claimed against him in respect of estates of her deceased mother gifted the immovable properties in question to his two daughters i.e. Defendants herein.

Let notice be issued to the Defendants for **22.08.2024**. Till then, let status quo be maintained in respect of the two properties (immovable and moveable) as mentioned in CMA No. 9160/2024.

3) Notice.

Arshad/

J U D G E