

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
S.M.A. 33 of 2024**

Date	Order with signature of Judge(s)
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For hearing of main petition

**19.09.2024**

Messrs Yousuf Moulvi, Raafia Murtaza and Bisma Memon, advocates for the petitioner along with

*Petitioner, Asma Abbasi, CNIC No.61101-2494347-4*

*Witness No.1, Anwar Saeed Khan CNIC No.61101-1988135-7*

*Witness No.2, Muhammad Suleman Abbasi CNIC No.61101-4594777-5*

Mr. Yousuf Khan, advocate for the objector

Per the report / order dated 15.08.2024 of the Deputy Registrar (OS) ("Report"), he has satisfied himself that all requisites to the hearing of the main petition, including its publication, have been fulfilled and no objection thereto has been received, therefore, the main petition shall be determined in terms herein.

This is a petition under Section 278 of the Succession Act, 1925, praying for Letter of Administration in respect of the estate of late Mehmooda Shah ("Deceased"). Per the Report, the Deceased expired on 18.12.2022 at USA and that the petitioner and legal heirs No.1, 3 to 5 are the legal heirs of the deceased. The legal heirs no. 1, 3, 4 and 5 have executed their power of attorneys in favour of the petitioner/ legal heir No.2. The death certificate and family registration certificate are stated to have been examined by the Deputy Registrar and are also available on file. The Report records the affidavits of two witnesses, which are also on file. The Report further records that estate of the deceased comprised (02) immovable properties, copies of title documents whereof are available on file.

The Report also records that the publication of the main petition had been effected in the daily Jang, Karachi dated 12.05.2024 but no objection has been received from any corner in such regard. The Report demonstrates that after having satisfied himself with the completion of the requirements, the Deputy Registrar has forwarded the matter for hearing of the main petition.

The Report observed that the original documents have not been produced, however, Nazir report dated 03.07.2024 demonstrates that pursuant to order of this Court dated 22.05.2024, the title has already been verified. The Report also demonstrates that the earlier witness has been substituted and the new witness is Mr. Anwar Saeed Khan; the other witness being Muhammad Suleman Abbasi, affidavit whereof is enclosed at page 63 of the court file.

Even though no objection was received by the Deputy Registrar pursuant to issuance of notice / publication etc, today objections have been filed by one Mr. Muhammad Aqeel Sarwar which are taken on record. Per learned counsel for the objector, the objector claims to have entered into a sale agreement with respect to an immoveable property constituent hereof. Whilst the purported sale agreement is stated to have been executed in the year 2021, the suit in respect thereof appears to have been instituted recently in the year 2024. Upon being queried as to whether the objector had any title to the property except the claim as articulated supra, learned counsel responded in the negative. Objector's counsel also conveniently omitted to file a copy of the purported agreement with the objections.

Learned counsel for the petitioner states that objections are frivolous and have been filed solely to frustrate the succession and to obtain an unlawful pecuniary advantage. He further points out that the said suit is prima facie in the name of a dead person as the primary defendant, deceased herein, had already expired on 18.12.2022.

The objections have been perused and nothing therein precludes the present legal heirs from exercising entitlement over the legacy subject matter herein. Admittedly no restraint of any kind whatsoever is available to the objector in his suit. Whilst this court considers it expedient to proffer no observation upon the viability of the suit, however, if the pendency thereof could not be demonstrated to automatically stay the present proceedings. In any event, the suit deals with inheritable rights and the competent court remains at absolute liberty to pass any protective orders, if a case could be set forth there before. In view hereof, the objections are over ruled.

In view hereof, it appears that all the requisites have been completed to the satisfaction of the Deputy Registrar and there appears to be no impediment to the grant hereof, therefore, this petition is hereby allowed. The office is directed to issue a letter of administration, in respect of the immovable property recorded in the Report, as per Rules.

This petition stands allowed in terms herein contained.

Judge