

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

MA No.13 of 2022.



Date: Order with signature(s) of the Judge(s)

Hearing [Priority].

1. For Orders on Office Objection a/w reply as at 'A'.
2. For Hearing of CMA No.3409/2022.
3. For Hearing of CMA No.1558/2022.
4. For Hearing of Main Case.

25th October, 2022.

Mr. Naeem Akhtar Khan Tanoli advocate for the appellant.
Mr. Hazoor Bux Ujjan advocate for Respondent No.1.

Admittedly subject matter property in succession petition is Plot No. A-224, Block-II, Gulshan-e-Iqbal Karachi admeasuring 240 Sq. Yards in KDA Scheme-2, Gulshan-e-Iqbal, Karachi. Appellant being one of the legal heir has challenged order dated 01.02.2022 on the plea that the said property is under valued by the Respondents and there are other properties left by the deceased Muhammad Ashique. Admittedly there is no dispute with regard to legal heirs. Besides, learned counsel for the appellant contends that one of the legal heirs is residing abroad. Needless to mention that succession proceedings are summarily in nature and cannot be counted as declaration in favor of any party and only are meant for transfer of foti khata badal and value assessed by any of the legal heir in SMA cannot be considered as value of the property and can be decided in independent proceedings. Moreover, some of the legal heirs have filed suit for partition of same property that is subjudice before the trial court, hence, letter of administration issued by the trial court would be only for the purpose of transfer the subject matter in favor of all legal heirs of Muhammad Ashique as per sharia and trial court shall ensure that exercise is completed by the authorities. Needless to mention that custodian of record of rights would be competent to decide the fate of mutation [change of title] as well as they would be competent to deny the proceedings, if there are clouds over the legal character of subject matter property.

In view of above, instant Misc. Appeal is disposed of.


JUDGE

M.Zeeshan