

**ORDER SHEET****THE HIGH COURT OF SINDH, KARACHI**

Suit No. 921 of 2014

***Before: Muhammad Abdur Rahman, J***

Ansar Hussain Siddiqui &amp; others

Versus

Abrar Hussain Siddiqui &amp; others

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**Dated:** Order with signature of Judge(s)

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For hearing of CMA No.3934 of 2022

Plaintiff : Through Mr. Saathi M. Ishaq Advocate  
Defendants : Mr. Muhammad Saleem Khan, Advocate  
Date of Hearing : 13 September and 24 February 2024  
Date of Order : 14 December 2024

**ORDER**

**MOHAMMAD ABDUR RAHMAN, J.** This order will decide an application, bearing CMA No.3934 of 2022 which is maintained by the Defendant No.1, under Order VII Rule 10 of the Code of Civil Procedure, 1908, seeking the return of the Plaint on the ground that an immovable property, which comprises the entire estate of the (late) Hashim Hussain Siddiqui and (late) Batool Fatima, being located at Hyderabad renders this suit as being outside the territorial jurisdiction of this Court and hence this Court lack jurisdiction to entertain this *lis*.

2. This Suit is pleaded as being a suit for “Administration, Permanent Injunction, Cancellation of Documents and Mense Profit” and is maintained by the Plaintiffs in respect of estate of the (late) Hashim Hussain Siddiqui and the (late) Batool Fatima who passed away on 29 March 1982 and 19 June 1997 respectively.

3. The (late) Hashim Hussain Siddiqui and the (late) Batool Fatima were husband and wife and from which wedlock the following children were conceived:

S.No	Name of Heirs	Relationship	Arrayed in Suit As
1.	Ansar Hussain Siddiqui	Son	Plaintiff No.1
2.	Musthaq Hussain Siddiqui	Son	Plaintiff No.2
3.	Anwar Hussain Siddiqui	Son	Plaintiff No.3
4.	Sajjad Hussain Siddiqui	Son	Plaintiff No.4
5.	Absar Hussain Siddiqui	Son	Plaintiff No.5
6.	Asrar Hussain Siddiqui	Son	Plaintiff No.6
7.	Masroor Fatima	Daughter	Plaintiff No.8
8.	Nasim Fatima	Daughter	Plaintiff No.9
9.	Abrar Hussain Siddiqui	Son	Defendant No.1
10.	Maqbool Fatima	Daughter	-

It is not dispute that during the life of the (late) Batool Fatima her daughter namely Maqbool Fatima died in 1994 and hence pre-deceased her. The (late) Maqbool Fatima was married and for the purposes of this Suit were succeeded to by her legal heirs as hereinunder:

S.No	Name of Heirs	Relationship	Arrayed in Suit As
1.	Najam Iqbal	Son	Defendant No.3
2.	Perviaz Iqbal	Son	Defendant No.4
3.	Nusrat Iqbal	Daughter	Defendant No.5
4.	Sohail Iqbal	Son	Defendant No.6
5.	Sarwal Iqbal	Son	Defendant No.7
6.	Parveen Zafar	Daughter	Defendant No.8

The legal heirs of the (late) Maqbool Fatima, while entitled directly to claim to the share of their mother i.e. (late) Maqbool Fatima in the estate of her father i.e. (late) Hashim Hussain Siddiqui in addition claim to their share in the estate of the (late) Batool Fatima, under Section 4 of the Family Law Ordinance 1961.

4. It is not disputed that the sole asset that comprises the estate of the (late) Hashim Hussain Siddiqui and the (late) Batool Fatima is an immovable property bearing Plot No.107-C, Unit 7-D, Latifabad, Hyderabad (hereinafter referred to as the "Said Property") and which is currently in the possession of the Defendant No.1. The sole question therefore to be determined by this Court in the application under Order is as the Said Property is located at Hyderabad, whether this Court has the requisite jurisdiction to entertain a Suit for Administration where the sole property comprising the estate of a deceased is not located within the territorial jurisdiction of this Court.

5. Mr. Muhammad Saleem entered appearance on behalf of the Defendant No. 1 and contended that as the Said Property was not located within the territorial jurisdiction of this Court, this Court lacked the territorial jurisdiction to entertain this *lis* and hence the plaint was liable to be returned under Order VII Rule 10 of the Code of Civil Procedure, 1908 to be presented before a Court of competent jurisdiction. He did not rely on any case law in support his contentions.

6. Mr. Saathi M. Ishaq has entered appearance on behalf of the Plaintiffs and contended that the jurisdiction of this Court to entertain a suit for administration is not premised on the basis of the location of the property comprised in the estate rather it was on the basis of the place of ordinary residence of each of the deceased at the time of their demise and which, being at Karachi, came within the jurisdiction of this Court. He also did not rely on any case law in support of his contentions

7. I have heard Mr. Muhammad Saleem and Mr. Saathi M. Ishaq and have perused the record. The Suit that has been maintained is admittedly a Suit seeking the administration of the estates of the (late) Hashim Hussain Siddiqui and the (late) Batool Fatima and which estate is only comprised of the Said Property. When there is no dispute as between the legal heirs, a Court administers an estate of a deceased person under the provisions of the Succession Act, 1925 (hereinafter referred to as the "Act, 1925") and pursuant to which it can issue Letters of Administration, Letters of Probate or a Succession Certificate. Such applications being presented under the provisions of that statute, the jurisdiction to hear and entertain such applications emanates therein and Section 268 of which statute prescribes that:

" ... 268. Proceedings of District Judges Court in relation to probate and administration.

*The proceedings of the Court of the District Judge in relation to the granting of probate and letters of administration shall, save as hereinafter otherwise provided, be regulated, so far as the circumstances of the case permit, by the Code of Civil Procedure. 1908."*

As is apparent by virtue of this Section, the provisions of the Code of Civil Procedure, 1908 would *inter alia* regulate the jurisdiction of a Court to whom such applications could be presented and which, to my mind, would ordinarily be regulated by the provisions of Section 16, 17, 18, 19 and 20 of the Code of Civil Procedure, 1908, unless a provision of the Act, 1925 provided "otherwise". While no provision, analogous to Section 268 of the Act, 1925, exists in the Act, 1925 in respect of the application of the Code of Civil Procedure, 1908 to the issuance of Succession Certificates,

however Section 372 of the Act, 1925 prescribes that the Code of Civil Procedure, 1908 would regulate the presentation and verification of such applications.

8. Provision regarding the criteria as against which jurisdiction is to be determined by this Court for entertaining Letters of Administration, Letters of Probate and a Succession Certificate has been clarified in Section 270 and Section 371 of the Act, 1925 and which prescribes as hereinunder:

“ ... 270. *When probate or administration may be granted by District Judge.*

*Probate of the will or letters of administration to the estate of a deceased person may be granted by a District Judge under the seal of his Court, if it appears by a petition, verified as hereinafter provided, of the person applying for the same that the testator or intestate, as the case may be, at the time of his decease had a fixed place of abode, or any property, moveable or immoveable, within the jurisdiction of the Judge.*

371. *Court having jurisdiction to grant certificate.*

*The District Judge within whose jurisdiction the deceased ordinarily resided at the time of his death, or, if at that time he had no fixed place of residence, the District Judge, within whose jurisdiction any part of the property of the deceased may be found, may grant a certificate under this Part.”*

It would therefore seem apparent that where an application for Letters of Administration or for Letters of Probate are maintained jurisdiction under Section 270 of the Act, 1925 is to be determined on the basis of the “fixed place of abode” of the deceased or where any part of the estate of the deceased is located. Similarly, in respect of Succession Certificates, jurisdiction would be determined on the basis of the location of any part of the estate of the deceased.

9. While Section 270 and Section 371 of the Act, 1925 determines the jurisdiction of a court for entertaining Letters of Administration, Letters of Probate and Succession Certificates, by contrast a Suit for Administration is not maintained under the provisions of the Act, 1925 and rather is maintained before this Court under Section 9 of the Code of Civil Procedure, 1908 and hence would be regulated by Section 16, 17, 18, 19 and 20 of the Code of Civil Procedure, 1908. The application of these sections was considered by a learned Single Judge of this Court in the decision reported as **Yusuf Abbas and others vs. Mst. Ismat Mustafa and others**<sup>1</sup> but which decision needs to be considered with a degree of caution as it related to the estate of a deceased when a portion of the estate was not only outside the jurisdiction of this Court but also located outside of Pakistan. Noor ul

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<sup>1</sup> PLD 1968 Karachi 480

Arfin, J while considering the jurisdiction of this Court considered that a Suit for Administration was an action *in personam* and opined that:

“ ... 21. It will thus be seen that the Courts in Pakistan and India have entertained suits for reliefs with regard to properties situated in foreign territories. In general, the view has been that this jurisdiction is not exercised under the Code of Civil Procedure, but on the principles which the Courts of Equity in England have applied in exercising jurisdiction *in personam*. I would, however, think that the exercise of this jurisdiction can be founded on the provisions of section 10 of the Civil Procedure Code itself. Under the explanation to section 16, the "Property" referred to in this section, and also in sections 17, 18 and 19, means "property" situated in Pakistan. If an action does not come within the purview of any of these sections, section 20 can then be invoked, and an action can be brought in a court in Pakistan even with regard to foreign immovables, if any of the conditions enumerated in clauses. (a), (b) and (c) of this section is in existence, that is, if the defendant, or each of the defendants resides or carries on business or personally works for gain within the local limits of the court's jurisdiction or, if only one of the defendant fulfils this condition, the court gives leave to sue the other's defendants or if the latter acquiesce in the institution of the suit, or if the cause of action has wholly or partly arisen within the jurisdiction of the Court. Section 20, is, of course, made subject to the, limitations contained in sections 16, 17, 18 and 19. One of these limitations is that the property with regard to which the suit is brought should be properly situated in Pakistan. This particular limitation, however, would disappear if the property is not situated within Pakistan, in which case there will be no bar to the exercise of jurisdiction over foreign immovables under section 20 of the Code.

10. The opinion in **Yusuf Abbas and others vs. Mst. Ismat Mustafa and others**<sup>2</sup> was “apparently” considered and while having been distinguished on the facts, was approved by the Supreme Court of Pakistan in the decision reported as **Muhammad Ramzan (Deceased) through L.R. and others vs. Nasreen Firdous and others**<sup>3</sup> and in which, where again the jurisdiction of this court in respect of a suit for administration was considered in terms of Section 16 to 20 of the Code of Civil Procedure, 1908 and it was considered that:

“ ... As regarding the question of the applicable substantive law, in order to determine the question of jurisdiction of the courts in line with the substantive municipal law of Pakistan, we will have to make recourse to sections 16 to 20 of the Civil Procedure Code, 1908 (C.P.C.).

7. We will now consider whether the present matter falls within the purview of section 20, C.P.C. Learned counsel for the appellants while relying upon section 20 of the C.P.C. contends that the courts below fell in error in refusing to exercise the jurisdiction with respect to the property(ies) situated in Pakistan because of the reason that the cause of action had arisen to the appellants in Pakistan as the deceased had passed away in Pakistan and in support of the contention has relied upon Yusuf Abbas's case (*supra*). Therefore, it seems expedient to consider the legal effect of the said section which reads as under:-

“20. Other suits to be instituted where defendants reside or cause of action arises.—Subject to the limitations aforesaid,

<sup>2</sup> PLD 1968 Karachi 480

<sup>3</sup> PLD 2016 Supreme Court 174

*every suit shall be instituted in a Court within the local limits of whose jurisdiction--*

*(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or*

*(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain as aforesaid, acquiesce in such institution; or*

*(c) the cause of action, wholly or in part, arises.*

*Explanation I.-- Where a person has a permanent dwelling at one place and also a temporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence.*

*Explanation II.-- A corporation shall be deemed to carry on business at its sole or principal office in Pakistan or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place."*

*Ordinarily, section 20 C.P.C. is to be read with and subject to the limitations prescribed in section 16, C.P.C., however, since section 16, C.P.C. does not apply in relation to property situated abroad, section 20, C.P.C. will have to be read independently in the present case.*

*In terms of section 20, C.P.C., a suit may be filed in a Court within the local limits of which (a) all the defendants were actually and voluntarily residing, carrying on business or personally working for gain at the time of commencement of the suit, or (b) any of the defendants, where there are more than one, actually or voluntarily resides, or carries on business or personally works for gain provided that in such cases leave of the Court is obtained or the defendants who are not within the Court's jurisdiction acquiesce or (c) where the cause of action wholly or partly arises. ..."*

From the above what is clearly settled is that the territorial jurisdiction of a court in entertaining a Suit for Administration is governed by the provisions of Section 16 to 20 of the Code of Civil Procedure, 1908. It was also held that as in the particular facts of the above referred decisions, the property was located outside of Pakistan, the provisions of Section 20 of the Code of Civil Procedure, 1908 would have to be considered subjectively to the facts of those cases to consider as to whether or not the jurisdiction of the Court could be invoked to entertain a *lis*.

11. However, what neither the Supreme Court of Pakistan nor the Learned Single Judge of this Court in each of the above referred decisions has opined on is as to whether a Suit for Administration is a suit to determine rights and interests as to title of property or in the alternative as to whether it is a suit to administer the property a deceased person and ancillary to which a determination as to rights and interests as to title of property are made and on which basis the jurisdiction of a court in respect of such *lis*

would therefore be governed by the provisions of Section 16, 17, 18 and 19 of the Code of Civil Procedure, 1908 or by Section 20 of the Code of Civil Procedure, 1909. This question came up before the Calcutta High Court prior to the promulgation of the Code of Civil Procedure, 1908 in a decision reported as **Nistarini Dassi Vs. Nundo Lal Bose**<sup>4</sup> and in which it was held that:

“ ... 16. The next objection is that, so far as regards the relief sought in respect of the two leases of the 1st of March 1891, it was a suit for land and therefore ought to have been brought not in this Court, but in the Court which exercised jurisdiction within the local limits, where the land was situated. The answer to this contention seems to me to be twofold. **First, this is not a suit for land. It is a suit for administration** and as incidental to that suit for a declaration that certain leases which the executors of the estate granted to themselves cannot stand as against the Plaintiff, the beneficiary. The testator's estate consisted of lands in Calcutta, Gaya, Patna and other places; secondly, the defect, if defect there were, has been cured by the leave given by the Court, for it has been held in the case of *Prasannamayee Dasi v. Kadambini Dasi* (1868) 3 B.L.R. (O.C.) 85, which was decided many years ago and which has since been consistently followed, that if the leave of the Court be given in cases in which part of the land is within and part is without the local limits of the High Court, the defect is cured.”

The Judgement of the High Court of Calcutta in **Nistarini Dassi Vs. Nundo Lal Bose**<sup>5</sup> was upheld by the Privy Council in the decision reported as **Benode Behari Bose and Ors. Vs. Nistarini Dassi and Ors.**<sup>6</sup> and in which it was held that:

“ ... 7. On the question of jurisdiction their Lordships consider the decision right. **The primary object of the suit was the administration of the estate of a deceased person resident within the jurisdiction**, the principal executor being also resident there and the actual administration going on there. The High Court of Calcutta, in its Ordinary Jurisdiction, had a right to order administration of this estate, and, as ancillary to such an order, to set aside deeds obtained by the fraud, of the executor. Nor does the circumstance that a decree had been granted by the Court of the 24-Pergunnahs making a fraudulent award an order of Court protect that decree from the jurisdiction of the Calcutta Court, when redressing that fraud. In like manner, their Lordships consider the Calcutta Court entitled, for the due administration of the estate, to set aside leases of land outside the territorial limits of their jurisdiction, those leases having been made as an incident of the same fraud.”

From the above two decisions what can be ascertained is that where a Suit for Administration has been maintained before a Court and which suit is coupled with ancillary relief relating to immovable property, the primary relief being the administration of the estate of a deceased person, jurisdiction is not to be determined on the basis of the location of the property comprising the estate of the deceased rather it is based on, what colloquially would be

<sup>4</sup> (1903) ILR 30 Cal369

<sup>5</sup> *Ibid*

<sup>6</sup> (1906) ILR 33P.C .180

referred to as the last place of ordinary residence of the deceased person prior to his demise. This same principle was eluded to in the order passed by Noor ul Arfin, J in **Yusuf Abbas and others vs. Mst. Ismat Mustafa and others**<sup>7</sup> and wherein it was considered that prior to the promulgation of the Code of Civil Procedure, 1908 the jurisdiction exercised by a Court in respect of the administration of the estate of a deceased was premised on “*the principles which the Courts of Equity in England have applied in exercising jurisdiction in personam.*” The question that therefore needs to be answered is what is the position after the promulgation of the Code of Civil Procedure, 1908. While each of the decisions in **Yusuf Abbas and others vs. Mst. Ismat Mustafa and others**<sup>8</sup> and **Muhammad Ramzan (Deceased) through L.R. and others vs. Nasreen Firdous and others**<sup>9</sup> have concluded that the provisions of Sections 16, 17, 18 and 19 of the Code of Civil Procedure, 1908 would have no application where the estate of the deceased was not located in Pakistan and have instead applied the provisions of Section 20 of the Code of Civil Procedure, 1908 to consider the jurisdiction of the Court to entertain such a *lis*, it is to be seen as to whether that section or Sections 16, 17, 18 and 19 of the Code of Civil Procedure, 1908 would govern the jurisdiction of the Court in this regard when the estate of the deceased is located within Pakistan.

12. The provisions of Section 16 of the Code of Civil Procedure, 1908 read as hereinunder:

“ ... 16. Subject to the pecuniary or other limitations prescribed by any law, suits;

(a) for the recovery of immovable property- with or without rent or profits;

(b) for the partition of Immovable property;

(c) for foreclosure, sale or redemption in the case of a mortgage of or charge upon immovable property,

(d) for the determination of any other right to or Interest in immovable property;

(e) for compensation for wrong to immovable property,

(f) for the recovery of movable property actually under distraint or attachment;

shall be instituted in the Court within the local limits of whose jurisdiction the property is situated, or, in the case of suits referred to in clause (c), at, at the place where the cause of action has wholly or partly arisen: -

Provided that a suit to obtain relief respecting, or compensation for wrong to, immovable property held by or on behalf of the defendant may,

<sup>7</sup> PLD 1968 Karachi 480

<sup>8</sup> *Ibid*

<sup>9</sup> PLD 2016 Supreme Court 174

*where the relief sought can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the property is situate 1or, in the case of suits referred to in clause (c), at the place where the cause of action has wholly or partly arisen) or in the Court within the local limits of whose jurisdiction the defendant actually and voluntarily resides, or carries on business, or personally works for gain.*

*Explanation.- In this section "property" means property situate in Pakistan."*

The purview of a Suit for Administration has been described in **Yusuf Abbas and others vs. Mst. Ismat Mustafa and others**<sup>10</sup> to be:

*" ... In its broad sense, administration includes the collection of assets of a deceased, the payment of debts and the distribution of the residue to persons beneficially entitled under the will of the testator or on his intestacy."*

While the process of administration, in terms of the distribution of the estate, may entail a determination of a right or an interest as to the title of persons to immovable and movable property, it cannot be said that the main purpose of a suit for administration is to determine such a right or interest in an immovable property so as to bring it within the purview of Sub-Section (d) of Section 16 of the Code of Civil Procedure, 1908. To the contrary, the main purpose of a Suit for Administration would always be, as clarified by Noor ul Arfin, J. in **Yusuf Abbas and others vs. Mst. Ismat Mustafa and others**,<sup>11</sup> to administer the estate of a deceased and with which finding I am in complete agreement, and which would therefore simply be a direction issued by a Court to a person to collect the assets of the deceased and after paying the debts on the estate to distribute the residue to the beneficiaries or legal heirs as per their entitlement. To my mind a Suit for Administration can therefore not come within the purview of Section 16,17, 18 or 19 of the Code of Civil Procedure, 1908 and hence the basis for determination of the jurisdiction of a court to hear a Suit for Administration recourse would have to be made under Section 20 of the Code of Civil Procedure, 1908.

13. While applying Section 20 of the Code of Civil Procedure, 1908 it is clear that as one of the defendants i.e. the Defendant No. 1 admittedly does not reside within the jurisdiction of this Court, the Court cannot therefore invoke it's jurisdiction under Sub-Section (a) of Section 20 of the Code of Civil Procedure, 1908 to maintain this Suit. In respect of Sub-Section (b) of Section 20 of the Code of Civil Procedure, 1908 while clearly some of the Defendants reside within the jurisdiction of this Court, the Defendant No. 1 clearly does not and no application for obtaining leave of this Court has been made to maintain the Suit as against him nor has the Defendant No.

<sup>10</sup> PLD 1968 Karachi 480

<sup>11</sup> *Ibid*

1 acquiesced to the jurisdiction of this Court, again preventing this Court from exercising its jurisdiction to maintain the Suit under that provision. What remains is therefore to see whether or not this suit can be maintained under clause (c) of Section 20 of the Code of Civil Procedure i.e. “*where the cause of action wholly or partly arises.*” Two very contrasting approaches have been taken while interpreting each of these provisions in respect of Suits for Administration. In **Yusuf Abbas and others vs. Mst. Ismat Mustafa and others**<sup>12</sup> it was considered that the jurisdiction being exercised being *in personam*, a suit could be maintained based on where the deceased was domiciled at the time of his demise, irrelevant as to whether the property that comprised the estate of the deceased was located within the jurisdiction of the Court or otherwise, the enforcement of the order being compelled through the personal obedience of the parties it being held that:

“ ... *In my opinion, this section embodies the principles which the Courts of Equity in England have applied in exercising jurisdiction in personam. I would, therefore, venture to say that under section 20, a suit with regard to properties situate outside Pakistan can be brought in a Court in Pakistan, if the Court decides to assume jurisdiction and if there exists any of the conditions enumerated in this section for the exercise of the jurisdiction. If the Court does exercise jurisdiction, its judgment or order will be enforceable through the personal obedience of the defendants by dealing with them in an appropriate manner, such' as for contempt or sequestration of their properties in Pakistan.*”

The Supreme Court of Pakistan in the decision reported as **Muhammad Ramzan (Deceased) through L.R. and others vs. Nasreen Firdous and others**<sup>13</sup> seems to follow the decision in **Yusuf Abbas and others vs. Mst. Ismat Mustafa and others**<sup>14</sup> and held that:

“ ... *Two determinative features in the facts of Yusuf Abbas case are not present in the present case: (i) the deceased in that case was domiciled in Pakistan hence invoking the jurisdiction of Pakistani Courts; (ii) the defendants in that case were residing in Pakistan bringing the suit within the purview of section 20, CPC.*

*Since the deceased was domiciled in Pakistan, the Pakistani Court already possessed jurisdiction under private international law to generally administer the estate of the deceased and the only issue was in relation to immovable property abroad which was subject to the rule of lex situs (discussed below). On the contrary in the present matter, the deceased not domiciled in Pakistan, rather it is undisputed that he was domiciled in England.*”

From the above, it would be evident that it has been considered that where the deceased is found to be domiciled within the jurisdiction of a Court at the time of his demise, then the Court would exercise jurisdiction over the

<sup>12</sup> PLD 1968 Karachi 480

<sup>13</sup> PLD 2016 Supreme Court 174

<sup>14</sup> *Ibid*

estate of that person and could therefore maintain a Suit for Administration. However, this proposition apparently is negated by the Supreme Court of Pakistan in the same decision wherein after considering Sub-Section (c) of Section 20 of the Code of Civil Procedure, 1908 it was held that:

“ ... Finally, subsection (c) does not help the case of the appellants since the question of jurisdiction of the Pakistani Courts in relation to the property in Pakistan forms part of a separate cause of action than that in relation to the property situated in England. The factum of the distinct location of the property alone gives rise to two separate causes of actions.”

Respectfully, I must admit that I have a difficult time reconciling this finding in the judgement with the earlier quoted finding of the same Judgement. While in **Muhammad Ramzan (Deceased) through L.R. and others vs. Nasreen Firdous and others**<sup>15</sup> it had been found that as the deceased was not domiciled within the jurisdiction of the Court the Court did not have jurisdiction to entertain the *lis*, to my mind it could have been held that on that basis alone the “cause of action” did not arise within the jurisdiction of the Court in terms of Sub-Section (c) of Section 20 of the Code of Civil Procedure, 1908. However, as the Supreme Court of Pakistan has specifically stated that the “distinct location” of the property would constitute a separate cause of action and determined jurisdiction not on the basis of the domicile of the deceased person but rather on the location of the property it would seem that the determination of a cause of action under Sub-Section (c) of Section 20 of the Code of Civil Procedure, 1908 would as per that finding have to be made on the basis of the location of the property comprised in the estate of the deceased and not on the basis of the domicile at the time of the persons demise.

14. In this Suit there is no dispute as to the fact that both the (late) Hashim Hussain Siddiqui and the (late) Batool Fatima were domiciled in Karachi and at the time of their demise were hence domiciled within the jurisdiction of this Court. It is also not in dispute that the only property constituting the estate of each of the deceased is located at Hyderabad and hence outside the jurisdiction of this Court. I, respectfully, admit that I find myself in agreement with the earlier quoted part of the judgement of the Supreme Court of Pakistan in **Muhammad Ramzan (Deceased) through L.R. and others vs. Nasreen Firdous and others**<sup>16</sup> and the decision of Noor ul Arfin, J in **Yusuf Abbas and others vs. Mst. Ismat Mustafa and others**<sup>17</sup> and consider that a Suit for Administration being a suit for the

<sup>15</sup> PLD 2016 Supreme Court 174

<sup>16</sup> *Ibid*

<sup>17</sup> PLD 1968 Karachi 480

appointment of a person to administer the estate of a deceased and not a suit for the determination of a right or interest in immovable property, the territorial jurisdiction of a court would be determined under Section 20 of the Code of Civil Procedure, 1908 and not under Section 16,17, 18 and 19 of the Code of Civil Procedure, 1907 and which cause of action, in the absence of jurisdiction being available under Sub-Section (a) and (b) of Section 20 of the Code of Civil Procedure, 1908, would be determined under Sub-Section (c) of Section 20 of the Code of Civil Procedure, 1908 on the basis of where the deceased was domiciled at the time of their demise and not on the basis of the location of the estate of the deceased and which jurisdiction would be *“enforceable through the personal obedience of the defendants by dealing with them in an appropriate manner, such' as for contempt or sequestration of their properties in Pakistan.”* As admittedly each of the deceased were domiciled within the jurisdiction of this Court at the time of their demise, the application is not maintainable.

15. For the foregoing reasons, I am of the opinion that as both the (late) Hashim Hussain Siddiqui and the (late) Batool Fatima were each domiciled at Karachi at the time of their demise, in terms of Sub-Section (c) of Section 20 of the Code of Civil Procedure, 1908 the cause of action accrued at Karachi and consequentially this Court has the requisite jurisdiction to entertain this *lis*. The Application is therefore dismissed.

J U D G E

14 December 2024