

IN THE HIGH COURT OF SINDH AT KARACHI

Civil Revision No.156 of 2022

Ms. Reena Alwi & Another

Versus

Haroon Abdullah and Others

Applicant: Through Mr. S. M. Yahiya Advocate.

Respondents: Through Mr. Zulfiqar Ali Advocate.

Date of hearing: 18.05.2026

Date of Order: 07.08.2026

J U D G M E N T

Saman Rafat Imtiaz, J.- This civil revision application has been filed by the Applicants against the order dated 01.09.2022 passed by the learned Additional District Judge-III, Karachi (East) in SMA No.1135 of 2017 whereby the succession certificate granted earlier in their favour was revoked under Section 383 of the Succession Act, 1925 and also to seek direction to the Respondents No.1 and 2 to release the funds due to the Applicants in terms of the orders dated 10.09.2019 and 14.10.2019; and to recall and cancel all criminal proceedings initiated under Section 193, PPC against the Applicants.

2. Briefly, the facts of the case as per the memo of petition, are that after the demise of their father, Mr. Riffatullah Alwi and his sister, Ms. Rashida Alwi, the Applicants filed Succession Miscellaneous Application No.1135 of 2017 seeking a succession certificate in respect of the balance lying in a joint bank account maintained in the names of the deceased father and his sister. Upon completion of the requisite proceedings, the learned District Judge, Karachi East, vide order dated 17.09.2019, allowed the application and subsequently, by order dated 14.10.2019, exempted the Applicants from furnishing security and directed the Nazir to obtain the deposited amount from the bank and release the Applicants' shares through crossed cheques. According to the Applicants, despite the finality of the aforesaid orders, the amounts were not released. Upon inquiry in May, 2022, they came to know that certain persons had filed an application under Section 12(2), C.P.C. seeking to challenge the grant of the succession certificate. The Applicants objected to the maintainability of

the said application on the grounds that the provisions of Section 12(2), C.P.C. were inapplicable to proceedings under the Succession Act, that no stay order had been granted, and that the objectors had not filed any valid authority to represent the alleged Applicants. Subsequently, the said application was withdrawn and replaced by an application under Section 383 of the Succession Act for revocation of the succession certificate. The applicants opposed the application under Section 383 of the Succession Act, contending that the District Judge had become functus officio after issuance of the succession certificate and that, in view of Section 384 of the Succession Act, any challenge to the certificate could only be made before the High Court in appeal. They further maintained that the allegations of fraud and concealment were vague, unsupported by particulars, and that the objectors had failed to establish any lawful entitlement in the estate of the deceased. The learned Illrd Additional District Judge, Karachi East, however, vide impugned order dated 01.09.2022 allowed the application under Section 383 and revoked the succession certificate, and further recorded observations regarding commission of offences under Section 193, P.P.C., directing initiation of criminal proceedings against the Applicants.

3. Aggrieved by the aforesaid order, the Applicants have invoked the revisional jurisdiction of this Court, primarily contending that the learned Court below acted without lawful jurisdiction in revoking the succession certificate, misread and ignored the material available on record, and illegally assumed criminal jurisdiction by recording findings of criminal liability in summary succession proceedings, thereby committing material irregularity and illegality warranting interference by this Court.

4. The learned counsel for the Applicants submitted that the petition for Succession Certificate was filed by the Applicants, which was allowed by the District Judge, Karachi East. However, on application under section 383 of the Succession Act filed by the Respondents No.3 to 9, the District Judge, Karachi East vide the Impugned Order has revoked the Succession Certificate. He argued that the District Judge does not have the power to revoke the Succession Certificate once it has been granted and the only remedy available to a party aggrieved by the issuance of a Succession Certificate is to file an appeal. The learned counsel referred to Section 373 of the Succession Act, 1925 which lays down the procedure on application and particularly sub-section (3) thereof to submit that the grant of Succession Certificate to the Applicant is based on a *prima facie* title and even in cases involving intricate questions which are

difficult for determination in summary proceedings the Succession Certificate may nevertheless be granted to the Applicant if he appears to be the person having *prima facie* the best title thereto. He submitted that this was the basis for the issuance of the Succession Certificate in favour of the Applicants as *prima facie* they are entitled to the Succession Certificate. Next, he referred to Section 383 which provides for the revocation of the certificate if such grounds exist but submitted that it does not provide any procedure. On the other hand, he argued that though at first sight, Section 384(1) may create an impression that the District Judge has the power to revoke a Certificate in which case the appeal would lie before the High Court but Section 384(3) and 388(3) reveal that the District Court does not have the power to review its own orders. As such the learned counsel for the Applicant contended that the only reasonable interpretation is that the District Court may have the power to revoke the Succession Certificate if it is granted by the Court inferior to it with which it has the concurrent jurisdiction pursuant to Section 388(1) and (2) but when it is the District Judge who has issued the Succession Certificate it is only the High Court that can revoke the same in appeal. Even otherwise he submitted that the objections filed by the Respondents No.3 to 9 were time barred as the Succession Certificate was issued in 2019 whereas the objections/application under section 12(2) CPC was filed in the year 2022 although the law permits only 30 days for a revision application.

5. Last but not least learned counsel for the Applicants argued that the issuance of show-cause notice for proceedings under section 193, PPC vide the impugned order is in violation of Article 10-A of Constitution of Islamic Republic of Pakistan, 1973. He argued that criminal liability cannot be imposed in a summary manner whereas in the instant case the Applicants were not given a chance to explain that there was no misrepresentation prior to the issuance of show-cause notice. He submitted that the learned III-Additional District Judge Karachi East who passed the impugned order overlooked and seriously erred in passing the impugned order as the Applicants are the daughters of the deceased Muhammad Rifatullah Alwi whereas the Respondents No.3 to 9 are the legal heirs of the Applicants' grandfather as such there is no misrepresentation on the part of the Applicants when they omitted the names of the said Respondents in their succession petition. Learned counsel for the Applicants in support of his contentions has relied upon the cases of *Rukhsana Kausar v. Additional District & Sessions Judge, Khanewal*, 2000 CLC 585, *Nasim Begum v. Farah Absar*, 2012 CLC 1776,

Umar Farooq Shah v. Mst. Shagufta, 1997 CLC 1846, and *Anita Anam v. General Public*, 2020 CLC 1053.

6. The learned counsel for the Respondents on the other hand submitted that the Respondents No.3 to 9 served a legal notice upon the Applicants stating that the Respondents may be the legal heirs of the deceased and yet the Applicants failed to disclose the said Respondents as legal heirs of the deceased in the Succession petition as such the impugned order does not suffer from any infirmity as Section 383(3) includes concealment of fact as ground for revocation of the Certificate. He further submitted that before these proceedings some of the Respondents in this Revision Application had also, after serving the legal notice filed and instituted Suit No.590 of 2005 for declaration, injunction, administration and cancellation of documents against the present applicants claiming to be the legal heirs of the deceased persons in response to which the Applicants admitted that the Respondents are the legal heirs of the deceased persons.

7. I have heard learned counsel for the parties and have perused the material available on record.

8. In a nutshell, the question raised by the Applicants in the instant appeal is what is the forum for seeking revocation of a certificate pursuant to Section 383 of the Succession Act. This question has already been considered and answered by a Division Bench of this Court in *Mst. Rana Alwi Vs. District & Sessions Judge, East, Karachi*, PLD 2023 Sindh 248 as follows:

*"Having considered the submissions advanced by the learned counsel for the Petitioner in light of those statutory provisions, we are of the view that the proposition advanced on behalf of the Petitioner is misconceived as **recourse under Section 383 is independent of an Appeal as may otherwise be filed under Section 384 against the grant or refusal of a certificate** and the wording of those Sections reflects an interplay whereby **the Application for revocation would lie to the Court that made the grant** and in the event of such application being accepted and the certificate revoked, an Appeal would then also lie in such event to the High Court. That of course, is very different from the contention of learned counsel that the act of revocation could itself only take place through an Appeal. The judgments relied upon in support of that contention are quite distinguishable and bear no applicability to the matter in hand inasmuch as they focus on the effect of Section 388 of the Act, which provides that where the Civil Court inferior to the Court of the District and Sessions Judge has made the grant, an Appeal from an Order of that Court would then lie to the District and Sessions Court rather than the High Court."*



9. In *Zohra Bibi Vs. Haji Sultan Mahmood*, 2018 SCMR 762, too, the revocation application was filed before the trial court, which was allowed against which an appeal was moved to the High Court which too was allowed with the result that the order of revocation was set aside. The said order of the High Court setting aside the trial court order for revocation was challenged before the Supreme Court and was set aside while the revocation order passed by the trial court was restored. In light of the said case law there can be no doubt that where the District Court has issued a certificate under the Succession Act, it has power to revoke the same under Section 383.

10. Regarding issuance of show cause notice for initiation of proceedings under Section 193, PPC, I do not find any violation of Article 10-A of the Constitution as alleged or otherwise. Another Division Bench of this Court has already held in *Shafi Muhammad Bhangwar Vs. State*, PLD 2012 Sindh 527 that show cause notice is required before initiating criminal proceedings, which will meet the fair trial requirements as envisaged in Article 10-A of the Constitution. Reference may also be made to *Sulleman Vs. The State*, 2007 PCr.LJ 46 and *Shakeel Aslam Vs. State*, 2001 YLR 707.

11. In view of the foregoing, the instant revision application is dismissed along with listed application.


(SAMAN RAFAT IMTIAZ)
JUDGE

Announced in open Court on 07th of August, 2026