

**THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

Present:

Mr. Justice Jawad Akbar Sarwana

1st Appeal No. 47 of 2025

1. For orders on office objections.
2. For orders on CMA 2223/2025.
3. For hearing of main case.

Appellant	:	Mst. Razia Khanum w/o Aijaz-Ur-Rehman. Nemo.
Respondent No.1	:	Rabia d/o Ghulam Hussain. Nemo.
Respondent No.2	:	Adil Ur Rehman s/o Ghulam Hussain. Nemo.
Respondent No.3	:	The Mukhtiarkar Taluka City Hyderabad.
Respondent No.4	:	Assistant Director NADRA.
Respondent No.5	:	Union Council UC No.51 HMC Hyderabad
Respondent No.6 Assistant	:	The Province of Sindh through Commissioner Hyderabad. Nemo.
Date of hearing	:	27.11.2025.
Date of Order	:	27.11.2025.

ORDER

JAWAD AKBAR SARWANA, J.: This appeal was instituted by the appellant/plaintiff, Mst-Razia Khanum w/o Aijaz-Ur-Rehman,¹ in the High Court on 09.04.2025 against the appellate judgment and decree dated 07.03.2025 passed by the learned 5th Additional District Judge, Hyderabad in Civil Appeal No.94/2024 (available on pages 19 to 31). In the said civil appeal, the appellant/plaintiff, Razia, was aggrieved by the trial Court's order dated 19.03.2024 passed by the 1st Senior Civil Judge, Hyderabad, in F.C. Suit No.1630/2023, allowing Mst. Rabia, the

¹ According to the title of this High Court appeal, Razia Khanum's deceased husband is shown as "Aijaz ur Rehman", whereas, in the title of Civil Appeal No.94/2024 the deceased husband is shown as "Aziz ur Rehman". Finally, in the Nadra Verification affidavits filed in the High Court and the lower forum, Razia Khanum's husband is shown as "Aijaz-ul-Rehman".

respondent/defendant's application under Order 7 Rule 11 CPC and rejecting the plaint filed by appellant/plaintiff, Razia.

2. Since the institution of this lis on 09.04.2025, none have appeared on behalf of the appellant/plaintiff. No intimation is received. This has been the case on 05.11.2025, 13.11.2025, 21.11.2025 and once again, today, i.e. 27.11.2025. None is in attendance on behalf of the appellant/plaintiff. Court motion notices were issued to the appellant for 13.11.2025, and on the appellant's counsel through electronic mode (Whatsapp, text, sms and email) based on the information available in the Vakalatnama filed by the appellant/plaintiff's Counsel. Appellant/plaintiff's Counsel was also cautioned, yet none have appeared.

3. It appears from the perusal of the record that the appellant/plaintiff, Mst. Razia Khanum filed a plaint in F.C. Suit No.1630/2023 seeking declaration, cancellation of the CNIC of the respondent no.1/defendant No.1-Mst. Rabia and her son, respondent no.2/defendant no.2, Adil-ur-Rehman, on the ground that the appellant/plaintiff alone is the only surviving legal heir of her deceased husband as per the heirship certificate. The prayers stated as follows:

- a) That this Honorable Court may be pleased to declare the plaintiff is the real legal heirs of the deceased Aijaz-ur-Rehman as per heirship issued by the Mukhtiar Kar City Hyderabad.
- b) That this Honorable Court may be pleased to cancel the CNIC of the defendant no.1 and her son bearing No.41303-2961685-6.
- c) That this Honorable Court may be pleased to issue the direction to the NADRA authority to produce the earlier CNIC of the defendant no.1 and also produce the record of old NIC of the defendant with all documents.
- d) May kindly be pleased to award costs of plaintiff.
- e) Any other relief, if deems fit and proper by this Honorable court, may kindly be granted in favor of plaintiff.

4. As per the Written Statement filed by the respondent no.1/defendant no.1, it emerged that a Succession Application No.76/2023 had been filed before the VIIth Addl. District Judge, Hyderabad, in which NADRA (respondent no.4) had submitted a report dated 31.08.2023, that the deceased "Aijaz-ur-Rehman s/o Aziz-ur-Rehman" having CNIC No.41303-2232613-5, had three (3) wives on the record of NADRA, namely, (i) Mst. Razia Khanum (appellant/plaintiff), (ii) Mst. Rabia (respondent no.1/defendant no.1), and (iii) former spouse, Rehana (shown as a divorced lady of the deceased). NADRA's report further disclosed that Mst. Razia Khanum (appellant/plaintiff) and the deceased had three children, namely, Shiza Hasan, Roshana Khan and Hunain Aijaz, and Mst Rabia (respondent no.1/defendant no.1) and the deceased had one son, Adil-ur-Rehman (respondent no.2/defendant no.2). In view of the foregoing and other grounds discussed by the lower forums, the trial Court rejected Razia Khanum's plaint, and the challenge to the trial Court's said order was sustained/upheld.

5. I have read the appellate court's impugned order and do not find any defect in the said order. First, the appellant/plaintiff has sought a declaration that the respondent no.2/defendant no.2 is not the son of the deceased Aijaz-ur-Rehman and Rabia, but such a challenge to the paternity of respondent no.2/defendant no.2 could only have been maintainable/raised provided that it was agitated by the deceased father and/or Adil-ur-Rehman (the son), himself, within the specified time under Article 128 of the Qanun-e-Shahdat Order, 1984. Even otherwise, applying the principles laid down by the Supreme Court of Pakistan in Mst. Laila Qayyum v. Fawad Qayyum and Others, PLD 2019 SC 449, Mst. Razia Khanum sought to deprive Adil-ur-Rehman of his identity and of his inheritance. The Court cannot legally make the declarations that the plaintiff seeks, nor can it order the cancellation of the documents. The suit filed by the appellant/plaintiff cannot be decreed in terms of the Mst. Laila Qayyum case (supra). As a corollary, if Razia could not challenge Adil's paternity, then Rabia, being his mother, could not be deprived of her identity and of her inheritance by Mst. Razia Khanum.

6. As per the Supreme Court in Mst. Laila Qayyum's case, too, a declaratory suit like the one filed by Mst. Razia Khanum, filed under section 42 of the Specific Relief Act, 1877, may be best buried sooner rather than later. As such, the lower forums rightly rejected the plaint at its inception, and I find no reason to protract the life of an incompetent suit. If a matter at its inception on a tentative assessment is unable to meet the contours of the bare minimum requirements of the pleadings, i.e. the plaint, the Court is well empowered to exercise its discretion and nip the pleadings in the bud.

7. Given the above, I find neither any irregularity nor any illegality in the impugned judgment passed by the appellate Court. Accordingly, this 1st Appeal is dismissed along with the listed applications.

JUDGE

Tufail