

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
C.P.No.S-294 of 2025
(Mst. Zoya v/s. P.O. Sindh through Secretary, Home Department & Ors)

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objections at flag "A".
2. For hearing of main case.

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01.09.2025

Mr. Bahadur Ali Shahani, Advocate a/w Petitioner.

Mr. Munwar Ali Abbasi, Assistant Advocate General, Sindh
a/w S.H.O. P.S. Market.

Mr. Sarfaraz Ali Abbasi, Advocate for Respondents No.4 to 6.

Mr. Sardar Ali, Deputy Prosecutor General, Sindh.

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NISAR AHMED BHANBHRO, J.:- The petitioner through this petition has invoked the constitutional jurisdiction of this Court for seeking custody of minor son Meer Murtaza, who per her contention, was allegedly confined by Imdad Hussain, respondent No.4, the grandfather of Meer Murtaza.

2. It is the case of the petitioner that she was married to Noshad Ali son of Imdad Hussain Kalhoro, about four years ago, who has passed away. Out of such wedlock she has one child Meer Murtaza, aged about three years. Per averments in the petition, the respondent No.4's behavior was not upto the mark, therefore, she left the house and joined her father.

3. Notice of the petition was given to the respondents. They appeared and volunteered to retain the petitioner and minor Meer Murtaza in their guardianship by providing them separate house and maintenance so also the educational expenses. Such a proposal though was initially not accepted by the petitioner, but later on she conceded that she intends to reside with her father-in-law and mother-in-law in a separate house, provided the respondents undertake to mend their ways, tender their behavior acceptable to the petitioner. This proposal was unconditionally accepted by respondent No.4.

4. On the last date of hearing, interim arrangement for the custody of the minor was made by the consent of both the parties. Today learned counsel for the petitioner has filed Statement dated 01.09.2025, which is signed by the petitioner and her counsel, taken on record. It has been mentioned in the statement that respondent No.4 shall purchase a separate residential house in the name of minor Meer Murtaza as they will

not reside in the rented house, respondent No.4 shall properly maintain the minor and the petitioner and he shall not force her for contracting second marriage. The mother-in-law and father-in-law of the petitioner can only reside with the petitioner and no other family member of respondent No.4 would come or reside in the house of Meer murtaza and NADRA record of the minor Meer Murtaza shall be maintained in the name of his father Noshad Ali and mother Zoya. Minor Meer Murtaza has only one name and his nick name Fawad shall not be entered into any record. He shall only be recorded in the name of Meer Murtaza and she contended that till the arrangement of house, she shall reside in the house of her father Najmuddin.

5. The proposal so brought forwarded has been accepted by respondent No.4 whole heartedly; however, he contends that his financial position does not allow him to purchase a house promptly; he undertakes that he will arrange a house and it will be registered in the name of his grandson Meer Murtaza and in such property no other family member will have any concern. He also undertakes that he shall provide proper maintenance to the petitioner so also to the minor. It is expected that when Respondent No.4 resides with the petitioner, she shall also abide by the ethics ordained under the Muslim culture. This proposal has not been objected by the petitioner, who is present in person alongwith her counsel.

6. The parties have agreed that respondent No.4 shall purchase or construct a new house in the name of Meer Murtaza preferably within one year; the petitioner shall not, under any capacity be eligible to transfer the property, in the name of another person being the natural guardian or even if she applies for the rights of the transfer of the property before the Guardian Court, the Guardian Court shall not allow such right to be applied by the petitioner it shall remain in the name of minor Meer Murtaza till he attained the age of majority, thereafter he may regulate the property in accordance with law, if he so desires. The educational expenses of the minor shall be borne by respondent No.4; he shall arrange a reasonable rented house, which he can afford; he shall also bear the expenses of the petitioner including monthly maintenance, but it shall not be in any case unreasonable that respondent No.4 may not afford.

7. The petitioner since has contracted marriage of freewill and soon after her marriage, her husband has passed away in a suspicious condition, therefore, it is imperative upon the local police to provide protection to both the parties equally in accordance with law and it is expected that the parties will not take law into their hands so that the police

may come into action. Concerned S.H.O. P.S. Sachal shall provide protection to both the parties in accordance with law.

8. Till the arrangement of a rented house is made, the interim order passed earlier regarding the custody of minor and schooling shall remain in the field. The order dated 28.05.2025 passed earlier for the sake of convenience is reproduced as under:

“Pursuant to Court’s notice, minor Meer Murtaza has been produced before this Court, by his grandfather Imdad Hussain Kalhoro. Learned counsel for respondents No.4 to 6 placed on record copy of Guardian ship Application filed before the Family Judge, Copy of C.P.No.S-436 of 2020, filed by the Petitioner and her deceased husband Noshad Ali, copy of F.I.R. No.127/2020 recorded by Najamuddin Langah, father of the petitioner, and 161 Cr.P.C. Statement of petitioner Mst. Zoya recorded by SIP / SIO Rehmatpur on 05.01.2021 and Form-B, issued by NADRA, taken on record.

In the objections filed by learned counsel for respondents No.4 to 6, it has been stated that petitioner had contracted marriage of freewill with Noshad Ali son of Imdad Hussain(respondent No.4) and such un-ceremonial marriage annoyed father of petitioner Najmuddin, who lodged F.I.R. No.127/2020, which was disposed of by the Statement recorded by the petitioner. He further submits that husband of the petitioner died in a suspicious condition and no F.I.R. was registered; however, intimation was sent to the local police. Mr. Abbasi further contends that since the parties were at daggers drawn prior to the death of Noshad Ali and the petitioner was declared Kari by her father about four years back and she has joined the house of the parents, therefore, respondents No.4 to 6 apprehend danger to the life of their grandson, which per his contention would not be safe in the house of father of the petitioner.

The contention so raised by the counsel for respondents No.4 to 6 are very serious and appalling in nature, which raise serious concern over the safety of the minor. The petitioner admittedly had eloped in contracting marriage of freewill with son of respondent No.4. The apprehension of the counsel for the respondents cannot be taken lightly on account of the past history of the relations between the parties. Therefore, as an interim measure, the custody of minor Meer Murtaza is handed over to the petitioner for one day subject to executing personal bond in the sum of Rs.1 Million before Additional Registrar of this Court by the petitioner herself and by her father Najmuddin, who is also present in the Court. The petitioner is directed to produce the custody of minor Meer Murtaza on 29.08.2025 at 11:00 a.m. Minor shall attend the school regularly. Respondent No.4 submits that he will pick the minor from house of the petitioner early in the morning and drop him in the school, thereafter the minor shall remain in custody of respondent No.4 until 6 p.m. in the evening and will return back to his mother. In the meanwhile, both the learned counsels are agreed that they will try to settle the issue between the parties outside the Court.”

9. The parties undertake that they shall not cause any sort of disturbance against each other. Since it has been stated by the petitioner the father's name of her son has been changed in NADRA record from Noshad Ali to Fawad Majid and her mother's name has also been changed as Zainab.

10. It is an admitted position that child's name is Meer Murtaza, his father's name is Noshad Ali, his mother's name is Zoya, his paternal grandfather's name is Imdad Hussain, his paternal grandmother's name is Ghulam Sarwar, his maternal grandfather's name is Najmuddin, his maternal grandmother's name is Farzana. Such record shall be accordingly maintained by the NADRA in the office. The petitioner shall not be compelled to file a separate litigation for change of name of her son Meer Murtaza. The Fouji Foundation School, from where the son of the petitioner getting education is also directed to change the name of son of the petitioner in school record as aforementioned. The NADRA authorities are directed to issue a fresh Form-B Certificate of minor Meer Murtaza in the name of petitioner and her husband; so also the school authorities shall issue a fresh admission letter in the name of petitioner and his father's name Noshad Ai any other name written in the record of School or NADRA shall be deemed to have been validly deleted and substituted by his real and correct name.

11. The petition stands disposed of in the above terms. Office is directed to send copy of this order to S.S.P. Larkana and Director, NADRA, Larkana as well as Principal, Fouji Foundation, Larkana for compliance.

Judge

Manzoor