

IN THE HIGH COURT OF SINDH KARACHI

Const. Petition No. S-713 of 2026
(Mrs. Rozina vs Province of Sindh & Ors.)

Date	Order with signature(s) of Judge(s)
Fresh Case,	
	1. For orders on office objections. 2. For hearing of main case.

18.08.2026.
Mr. Abdul Wahab Choochan, Advocate for the Petitioners.
Mr. Khadim Hussain, Advocate for Respondent.

ORDER

Nisar Ahmed Bhanbhro, J. Through this petition, petitioners have sought following relief:-

- “a. Issue an appropriate writ, direction or order directing the Respondents to immediately produce minor Baby Aiman before this Honourable Court.
- b. Declare that the Petitioners, being the biological parents of the minor, continue to be her natural and lawful parents, and that no private arrangement or alleged adoption can divest them of their parental rights under the law.
- c. Direct the Respondents to immediately hand over the custody of minor Baby Aiman to the Petitioners, being her biological parents, in the paramount welfare and best interests of the minor.
- d. Direct the Respondents to disclose the complete particulars of the present residence, educational institution, medical records and all other relevant details concerning the welfare and whereabouts of the minor.
- e. Declare that any official record, school record or any other public document, if prepared or maintained contrary to the true biological parentage of the minor, does not confer any legal status upon the Respondents as the natural parents of the minor, and direct the concerned authorities to rectify and correct such record, if any, strictly in accordance with law. OR
- f. Grant any other relief, declaration, direction consequential order deemed just, equitable and appropriate in the peculiar facts and circumstances of the case, including costs of these proceedings.”

- 2. Pursuant to the Court notices, respondent No. 5, Ghulam Mustafa, along with his wife, Mrs. Rehana, who is also respondent No.6 herein, appeared before this Court and produced the minor, Aiman. Upon a query by the Court, the minor disclosed her parentage as Ghulam Mustafa and Rehana and stated that she is studying at The Educators School and residing with Ghulam Mustafa and Rehana as their daughter. When asked about petitioner No. 1, Rozina, who is present in Court, the minor Aiman stated that she is her Phuppo (paternal aunt) and expressed her willingness to go with respondent Nos. 6 and 7.
- 3. Learned counsel for the petitioners submits that the minor Aiman was given in adoption to respondent Nos. 6 and 7, who were issueless, and that petitioner No. 1, being

the real sister of respondent No. 6, handed over the custody of the minor as a token of love and affection. He further submits that, for the last many years, respondent Nos. 6 and 7 have kept the minor Aiman in their illegal custody and have not allowed the petitioners to visit her daughter. He next contends that, under Islamic principles, adoption does not, in any manner, confer any right to retain custody of a minor for an indefinite period. It is submitted that, since the petitioner is the real biological mother and has approached the Court seeking the custody of the minor, the instant petition may be allowed as an interim arrangement, subject to final determination by the learned Guardian Court, before which, as submitted by learned counsel for the petitioner, the petitioner shall file an appropriate application. He has placed reliance upon the case of *Mst. Arzu v. District Police Officer, Khanewal & others*, reported as 2004 YLR 1073.

4. Learned counsel for Respondent Nos. 6 and 7 submit that they are the biological parents of the minor, Aiman, and have been looking after her in accordance with law. Learned counsel submits that the instant petition involves disputed questions of fact, which cannot be adjudicated in the writ jurisdiction of this Court, as the petitioners are required to establish that the minor is their biological daughter before the competent forum, i.e., the Guardian Court. He, therefore, prays for dismissal of the petition.

5. Heard arguments and perused the material available on record.

6. The petitioners seek custody of the minor, Aiman, on the ground that she is their biological daughter. This fact, however, has been denied by respondent Nos. 6 and 7 as well as by the minor, Aiman. Since a disputed question of fact has arisen, this Court, while exercising its writ jurisdiction, cannot delve into such disputed questions of fact or pass an order regarding the custody of the minor. It is for the petitioner to establish before the competent forum that Aiman is their biological daughter and, thereafter, to further establish that her welfare lies in their custody.

7. The petition in view of above being not maintainable and is hereby dismissed, with no order as to costs. The petitioners, however, shall be at liberty to file an appropriate application before the learned Guardian Court to establish their parentage. In case the petitioners approach the learned Guardian Court, the same shall decide the application in accordance with law, keeping in view the provisions of Sections 17 and 25 of the Guardians and Wards Act, 1890.

8. The petition stands disposed of in the above terms.

JUDGE