# HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

**Constitutional Petition No.S-434 of 2024**

**Present: Justice Jawad Akbar Sarwana**

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| Petitioner | : | Ms. Sumaira d/o Late Qurban Ali<br>through Mr.Sajid Hussain Soomro, Advocate |
| Respondent No.1 | : | Learned Civil/Guardian Judge-VII, Hyderabad |
| Respondent No.2 | : | Learned Model Civil Appellate court-II/6th Additional District Judge, Hyderabad<br>through Mr.Wali Muhammad Jamari, A.A.G |
| Respondent No.3 | : | Aijaz Ali s/o Late Qurban Ali |
| Respondent No.5 | : | Miss Saba (minor) d/o Late Qurban Ali |
| Respondent No.6 | : | Miss Sawer (minor) d/o Late Qurban Ali |
| Respondent No.7 | : | Mst. Tasleem 2nd w/d of Late Late Qurban Ali<br>r/o House No.B-15, Liaquat Town, Tando Jam<br>Taluka & District Hyderabad. Nemo. |
| Respondent No.4 | : | Azra Waqar d/o Late Qurban Ali<br>s/o Waqar Ahmed<br>r/o Village Manjhand, P.O Manjhand<br>District Jamshoro |
| Respondent No.8 | : | General Public at large |
| Date of hearing | : | **27.10.2025** |
| Date of decision | : | **11.11.2025** |
| Date of Reasons | : | **10.11.2026** |

## O R D E R

**JAWAD AKBAR SARWANA, J.:** Petitioner/appellant, Miss Sumaira d/o parents Late Qurban Ali and his first wife, Ameerzadi, is aggrieved by the Judgment and Decree dated 26.09.2024 passed by the Civil Appellate Court-II / VIth Additional District Judge, Hyderabad, in Family Appeal No.102 of 2024,[1] dismissing her appeal against the dismissal order dated 18.07.2024 passed by the VIIth Guardian Judge, Hyderabad, in G&W

[1] Available on pages 15-19 of the petition

Application No.497/2023,[2] seeking appointment of Guardianship of her minor sister, Sawera d/o parents, Late Qurban Ali and his first wife, Ameerzadi She contends that the Judgment, Decree, and Order passed by the lower forums are "without lawful authority" and "are of no legal effect", as merely for non-production of her siblings for recording their "No Objection" and failure to disclose all the legal heirs, one of whom, i.e. the step-mother, was also not a necessary party, the Guardian Judge dismissed her application for appointment as a Guardian to her sister, who is also a legal "orphan". Hence, this challenge is brought under the writ jurisdiction of the 1973 Constitution before the Regular Bench of the High Court.

2. Heard Counsel and perused the record available in the petition. The record of the G&W application reveals that the applicant/Sumaira, in support of her application for appointment under Section 7 read with Section 10 of the Guardians and Wards Act, 1893, had attached the NADRA FRC, NADRA Death Certificate, and Succession Order dated 25.10.2023 in Succession Application No.72/2023 passed by the VIIIth Additional District Judge, Hyderabad. The said documents, read collectively, clearly disclosed all the legal heirs of the applicant/Sumaira and her blood sister, minor, Miss Sawera. Prima facie, there does not appear to be any malafide on the part of the petitioner/Sumaira concerning non-disclosure of the legal heirs of Late Qurban Ali.

3. I now turn to the non-production of her siblings and their "No Objection" to the application for guardianship. The record shows that while the petitioner/Sumaira and her brother, Aizaj Ali, appeared before the Guardian Judge and gave their "No Objection", she could not produce the remaining siblings / legal heirs of her deceased parents, Late Qurban Ali and Ameerzadi. She partially explained the non-attendance of her sister, Azra, as she lives beyond the jurisdiction of the Guardian Court; however, she gave no explanation for the non-attendance of her other sister, Miss Saba. The Guardian Judge, who is expected to look after the welfare of a minor, such as, in this instant case, Miss Sawera, ought to have addressed the problem put up by the petitioner/Sumaira, who had disclosed in her application that she had approached the Guardian Judge

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[2] Available on page 73 of the petition

to facilitate the minor's future admission in anticipation of the Colleges/Universities asking for the Guardianship Certificate. In the facts and circumstances, the Guardian Judge ought to have avoided taking a highly technical approach, and instead adopted a more pragmatic and holistic approach, particularly as the Guardian Judge enjoyed ample power to secure the "No Objection" of the remaining siblings by numerous means, including, but not limited to, commission, video conferencing, through bailiff, police aid, etc. Moreover, tentatively speaking, the minor, Miss Sawera, was already residing with her elder sister at her parents' home and, in the circumstances, it would appear that there is/was no better Guardian within the family than the petitioner/Sumaira.

4. In view of the above facts and circumstances, the above-titled petition was allowed, and the two impugned Judgment/Order, namely (i) Judgment dated 26.09.2025 passed by the VIth Addl District Judge Hyderabad in Family Appeal No.102/2024, and (ii) Order dated 18.07.2024 passed by the VIIth Guardian Judge Hyderabad in Guardian Application No.497/2023, are/were set aside, and the subject matter of this petition is remanded to the VIIth Guardian Judge, Hyderabad, to be decided afresh, vide by Short Order dated 11.11.2025.

5. The above are the reasons for the Short Order dated 11.11.2025 allowing the petition in the above terms. Office to issue notice to the parties and the concerned Court with a copy of these reasons.

**JUDGE**

AHSAN K. ABRO