

IN THE HIGH COURT OF SINDH, KARACHI

CONST. PETITION NO. S-349 OF 2026

Petitioners : *M/s. Saira Adnan Haji* through M/s. Haider Waheed and Hussain Idress, Advocates

Respondent : Adnan shams Haji through Mr. Yahya Sial, Advocate

Date of hearing : **03.08.2026**
& Order

ORDER

NISAR AHMED BHANBHRO, J. This petition is directed against the order dated 09.04.2026 passed by the learned VII Additional District Judge Karachi-South in Family Appeal No.06 of 2026 and order dated 19.11.2025 passed by the learned trial Court viz XVIth Family Judge (South) Karachi whereby an application of Guardian & Wards bearing No.233/2025 and change of minor parentage was declined.

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

3. The dispute between the parties concerns the guardianship of the minor, Serina, who was born on 18.10.2010 out of the wedlock of Saira and Javed Jibran. However, the marriage between the parties could not survive and was subsequently dissolved. Thereafter, Saira contracted a second marriage with Adnan Shams Haji, who is the respondent in this petition.

4. At the time of the second marriage of Petitioner No.1, Saira, the minor was approximately five years of age. This fact stands established from the Birth Registration Certificate available at page 57 of the file, wherein the minor's name is recorded as "Serina Adnan Haji d/o Jibran Javed." The marriage between Petitioner No.1 and the respondent, Adnan Shams Haji, was also subsequently dissolved. However, during the subsistence of that marriage, an application seeking guardianship of the minor, Serina, was filed before the Guardian Court. The biological father of the minor, Javed Jibran, raised no objection to the said application. Consequently, the application was allowed, and the guardianship of the

minor, Serina, was entrusted to Adnan Shams Haji by the learned Guardian Judge No. XXIII (East), Karachi, vide order dated 30.01.2018. Paragraph 3 of the said judgment reflects that the application was allowed on the basis of the no-objection tendered by Javed Jibran, the biological father of the minor.

5. It further transpires from the record that the learned trial Court, vide order dated 19.11.2025, dismissed the application for issuance of a Guardianship Certificate on the ground that such a certificate could only be issued after recording the evidence of the parties and framing the necessary issues. The said order was subsequently maintained by the learned trial Court. There can be no cavil with the proposition that the issue of guardianship of a minor is to be determined with paramount consideration to the welfare of the minor, and where the biological parents are in dispute regarding such guardianship, evidence is required to be recorded before adjudication. However, the facts of the present case are distinguishable. The guardianship of the minor was entrusted to the respondent solely on the basis of the no-objection furnished by the biological father, in view of the prevailing circumstances at the time when the mother of the minor had contracted a second marriage with Adnan Shams Haji. The said marriage has since been dissolved, thereby materially altering the circumstances under which the guardianship order was originally passed. Therefore, the dispute regarding the guardianship of the minor stood resolved in favour of the mother once her marriage with the respondent came to an end. Since the minor is not the biological daughter of Adnan Shams Haji and is now approximately 16 years of age, she cannot be permitted to remain under the guardianship of her stepfather after the dissolution of his marriage with her mother. In the circumstances, her welfare lies with her biological parents, particularly her biological father, and, therefore, the recording of evidence or the framing of issues was not a mandatory requirement of law in the facts of the present case.

6. As regards the other relief sought by the petitioners concerning the correction of the minor's parentage, it appears that the minor's name is presently recorded as "Serina Adnan Haji," whereas she is the biological daughter of Jibran Javed. The said name appears to have been adopted at the time when her mother contracted her second marriage with Adnan

Shams Haji. Under the injunctions of Shariah, as well as the principles embodied in the United Nations Convention on the Rights of the Child, a child who is neither an orphan nor abandoned has the right to be identified by and associated with his or her biological parentage. Consequently, attributing the parentage of the minor to a person who is not her biological father may prejudice her legal identity and could adversely affect her future, including her educational, professional, and personal affairs, particularly when she attains full maturity and becomes aware of her true parentage. The documentary evidence which already available with the NADRA in the form of birth registration certificate also claim of the minor should have established which stands supported from the record even a declaration from Civil Suit was not mandatory. In such circumstances, NADRA and the concerned school authorities were competent to record the correct name of the minor along with her correct parentage. Although Mr. Yahya, learned counsel for the respondent, has placed reliance upon the cases of *Urooj Tabani v. Federation of Pakistan & Ors.* (PLD 2021 Islamabad 105), *Khalid Pervaiz ul Haq vs. Mst. Hina Asif & Ors.* (PLD 2025 SC 847), *Arshad Rasool vs. Mst. Saniya & Ors.* (2019 YLR 700) and *Syed Saghir Ahmad Naqvi vs. Province of Sindh & Ors.* (1996 SCMR 1165) and advanced the argument that the matter fell within the jurisdiction of the Civil Court, contending that only after obtaining a declaration from the Civil Court could the concerned authorities effect any change in the name and guardianship of the minor.

7. The argument so advanced would have relevance in cases where there exists a dispute between the biological parents or lawful guardians of a minor. However, the facts of the present case are entirely distinguishable, as the person contesting the matter is a stranger to the minor's biological relationship and has no legal connection with the minor whatsoever. Therefore, the said principle cannot be applied to the circumstances prevailing in the present lis.

8. For the foregoing reasons, a case for indulgence of this Court in the exercise of its corrective and constitutional jurisdiction is made out. Consequently, the order dated 09.04.2026 passed by the learned Appellate Court, as well as the order passed by the learned trial Court, are hereby set aside. The earlier consent order dated 19.11.2018 passed by the Guardian Court is also set aside.

9. The guardianship of the minor, Serina, is hereby granted in favour of her mother, Petitioner No.1 herein, while leaving the biological father at liberty to agitate his right or claim, if so desired, in accordance with law. NADRA and the concerned school authorities are directed to consider the request of the minor for correction/change of her name in accordance with her actual parentage. Learned counsel for Petitioner No.1 has submitted that no such application has yet been submitted before NADRA or the concerned school authorities. Accordingly, NADRA and the relevant school authorities are directed to process and decide such application within one month from the date of its submission by Petitioner No.1.

10. Learned counsel for the petitioner submits that proceedings before the trial court in the wake of the order passed by this bench have become infructuous, as such the same will be withdrawn within two days' time.

JUDGE