

**IN THE HIGH COURT OF SINDH**  
**CIRCUIT COURT MIRPURKHAS**

Constitution Petition No.D-768 of 2024  
(*Ghazala Yousif Vs. Commissioner Mirpurkhas & others*)

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**DATE      ORDER WITH SIGNATURE OF JUDGE**

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*Before:*  
Adnan-ul-Karim Memon, J.  
Amjad Ali Bohio, J.

Date of hearing & Order 09.09.2024

Petitioner Mst. Ghazala Yousif is present in person  
Mr. Abdul Aziz Memon, Advocate along with intervener Mst. Hira  
Mr. Ayaz Ali Rajpar, Additional A.G Sindh a/w Mukhtiarkar  
Revenue, Digri

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**ORDER**

Adnan-ul-Karim Memon, J. The petitioner is requesting this Court to order the official respondents to transfer ownership of property (*Foti-Khata-Badal*) that belonged to her deceased husband, Faqeer Babar Khan Laghari. She is claiming her inheritance rights from his estate.

2. Petitioner who is present in person has submitted that she is the widow and sole legal heir of her late husband Faqeer Babar Khan Laghari and claims share in her late husband's property. She submits that she has filed applications with local government officials but has not yet received a response. She alleges that the respondents are causing her mental distress and preventing her from obtaining her rightful inheritance. She requests this Court to order the relevant government officials to issue a report of *Foti Khata Badal* on the property and to transfer her share of the inheritance to her name.

3. At this stage, we reminded her that in compliance with the Court order dated 12-08-2024, the Mukhtiarkar has passed the order dated 30-08-2024 and she can avail her remedy under the law. She submitted that as per the Family Registration Certificate issued by NADRA, which explicitly shows that she was the wife of Faqeer Babar Khan and out of that wedlock, she gave birth to a son Faqeer Jahangir Babar Khan born on 21-07-2023. As such, the claim of the intervener is an afterthought to deprive her from the inheritance. On the issue of the order passed by Mukhtiarkar,

she claims that the same order is against the law and liable to be set aside, as she cannot be thrown out from the inheritance right under the garb of order declining the *Foti Khata Badal*. She prayed for allowing this petition.

4. In compliance with the order dated September 2nd, 2024, the following information regarding the Relevant Revenue Record of Faqeer Bashir Ahmed, father of deceased Babar Khan Laghari is submitted by the Mukhtiarkar;

Block No. 5/1 to 6 & others, totaling 143.04 acres situated in Deh 176, Taluka Digri is registered in the name of Faqir Basheer Ahmed S/o Haji Abdullah (0-50 paisa share) and Faqeer Babar Khan S/o Faqeer Basheer Ahmed (0-50 paisa share).

Entry No. 26 dated March 20th, 2014, shows Faqeer Babar Khan S/o Faqeer Basheer Ahmed availed a loan of Rs. 5,292,000/- from Habib Bank Limited, Digri. This entry remains mortgaged in favor of HBL Digri.

Entry No. 135 of VF-VIIB reflects the change of ownership for the deceased Faqeer Basheer Ahmed's share in favor of his legal heirs The details are as follows:

S.No	Name of Legal Heir	Relationship	Share
1	Faqeer Babar Khan Leghari	Son	0-12.50 paisa
2	Wafa Khan	Daughter	0-06.25 paisa
3	Natasha D/o Faqeer Basheer Ahmed	Daughter	0-06.25 paisa
4	Zara Khan D/o Faqeer Basheer Ahmed	Daughter	0-06.25 paisa
5	Anhita Khan D/o Faqeer Basheer Ahmed	Daughter	0-06.25 paisa
6	Hira Khan D/o Faqeer Basheer Ahmed	Daughter	0-06.25 paisa
7	Zahida Perveen wd/o Faqeer Basheer Ahmed	Widow	0-06.25 paisa
<b>Total</b>			<b>0-50 paisa</b>

5. Mukhtiarkar present in court submits that the Revenue Department is unable to determine the disputed legal status of Mst. Gazala Yousuf as the legal heir of Faqeer Babar Khan Leghari. The matter is beyond their jurisdiction and must be resolved in a civil court. At this stage, the petitioner has refuted the claim of Mukhtiarkar by showing the Family Tree of the deceased Faqeer Babar Khan wherein the petitioner is the wife of the deceased Babar Khan. The learned counsel for the intervener has referred to the application under Order I rule 10 CPC (CMA No.1113 of 2024) and submits that the petitioner is not the widow of the late Faqeer Babar Khan Laghari, but is a divorcee. He argued that the late Faqeer Babar Khan had married the petitioner on 17-08-2020 and that the marriage was over due to the disloyalty of the petitioner with her husband and such marriage was dissolved vide Talaqnama dated 31-11-2022. He further submitted that intervener No.01 is the widow of the late Faqeer

Bashir Khan, whereas the remaining interveners are her daughters. Late Faqeer Babar Khan was the son of her husband but from another mother/lady. Learned counsel pointed out that the petitioner filed a Family Suit No.101 of 2022 for recovery of maintenance in Family Court wherein she failed to disclose her pregnancy and the same was dismissed on 13-05-2023 for non-prosecution and the said order attained finality. Learned counsel submitted that Faqeer Babar Khan Laghari had divorced the petitioner orally on 17-05-2021 and the same was incorporated into writing on 03-11-2022 in the presence of witnesses. He also disputes with regard to the pregnancy of the petitioner as parentage of Master Jahangir. Learned counsel prayed for the dismissal of the petition.

6. We have heard the parties present in court and perused the record with their assistance.

7. Mst. Gazala Yousuf has filed a petition seeking a change of Fotikhata Badal (mutation) in her favor as the legal heir. The dispute revolves around the inheritance rights of Mst. Gazala Yousuf in the property left by Faqeer Babar Khan Leghari. Mst. Hira daughter of Faqeer Basheer Khan Leghari, the sister of the deceased, has filed a counterclaim stating that the marriage between Mst. Gazala Yousuf and Faqeer Babar Khan Leghari were dissolved and therefore she was/is not entitled to inherit the property, left by Faqeer Babar Khan Laghari. Both parties have presented documents to support their claims, including Nikahnama, CNIC, court orders, and NADRA records.

8. Prima-facie, the validity of the marriage between Mst. Gazala Yousuf and Faqeer Babar Khan Leghari a crucial factors in determining her inheritance rights. Prima facie, the parties are at loggerheads on the premise that NADRA records indicate that Faqeer Babar Khan Leghari changed his marital status to a divorcee in 2022. If the marriage is valid, Mst. Gazala Yousuf and her son Master Jahangir would be entitled to inherit the property according to Islamic law. However, if the marriage is invalid or has been dissolved as per the claim of the parties, her inheritance rights may be limited or non-existent. However, this observation is tentative.

9. Based on the information provided by Mukhtiarkar, the Revenue Department is unable to determine the disputed legal status of Mst.

Gazala Yousuf as the legal heir of Faqeer Babar Khan Leghari. The matter is beyond their jurisdiction and must be resolved in a civil court.

10. In view of the above-disputed question of facts involved in the present proceedings, this Court cannot dilate upon the merits of the case and leave the parties to seek remedy from the court of plenary jurisdiction and or suit for the letter of administration, if law permits, for protecting their inheritance rights as this court cannot determine their inheritance rights through the constitutional petition for the simple reason that Mukhtiarkar has decided the issue between the parties regarding Foti Khata Badal vide order dated 30.8.2024 and if the petitioner is aggrieved by such order she may avail her remedy under law.

11. This petition along with pending applications stand disposed of in the terms discussed in the preceding paragraphs.

**JUDGE**

**JUDGE**

*"Ali Sher"*