

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Qazi Faez Isa, CJ
Justice Naeem Akhtar Afghan
Justice Shahid Bilal Hassan

**Civil Petition No. 3381 of 2024 and C.M.A. No. 7234 of 2024 in Civil
Petition No. 3381 of 2024**

*(Against the order dated 26.06.2024 of the Islamabad
High Court, Islamabad, passed in W.P. No.138 of 2023)*

Tanvir Sarfraz Khan ... *Petitioners
(in both cases)*

Versus

Federation of Pakistan through Director Legal, Islamabad and others
... *Respondents
(in both cases)*

For the Petitioner: Mr. Agha Muhammad Ali Khan, ASC a/w petitioner
Syed Razaqat Hussain Shah, AOR

For the Respondents: In person (respondents No. 3, 4, 6 to 9)

Date of Hearing: 02.10.2024.

ORDER

Qazi Faez Isa, CJ. We had issued notices to the private respondents expecting that the petitioner may become reasonable and amicably resolve his dispute with his siblings, but unfortunately this has not happened.

2. The case pertains to the estate of Sarfraz Ahmad Khan who passed away in the year 2010, leaving behind five sons, five daughters and a widow, and his estate included a house constructed on 12 *marlas* and 218 square feet in the city of Rawalpindi (**‘the Property’**). When the petitioner’s sisters claimed their inheritance he agreed that the Property be evaluated and had agreed to pay the legal heirs of Sarfraz Ahmad Khan their respective shares as per *shariah*. The Property, as agreed, was evaluated but the petitioner resiled from his own commitment, and challenged his signed ‘*Consent/Joint Statement*’ before the High Court.

3. The impugned judgment refers to said ‘*Consent/Joint Statement*’ and noted that, ‘*When confronted, the learned counsel [for the petitioner] states that his client did not understand what he was signing. He, however, also conceded that his counsel was present on the occasion*’.

4. We asked the petitioner what he does and he stated that he retired a year back from the position of Assistant in the Education Department. He also confirmed that he can read and write. Therefore, the ground taken by him to assail the '*Consent/Joint Statement*' was unjustified.

5. The learned counsel then referred to the '*Suit for Partition, Declaration, Specific Performance and Permanent Injunction*' filed by the petitioner on 15 December 2021. Sarfraz Ahmad Khan died about eleven years ago and when the sisters sought their share in his inheritance on 11 October 2021 only then did the petitioner file the said suit two months thereafter. The pendency of the said suit has no effect on the estate of Sarfraz Ahmad Khan nor can exclude the legal heirs from their inheritance. The property of a deceased Muslim vests in his legal heirs immediately upon his death. We have repeatedly held that the inheritance rights of the vulnerable members of society, which include females, must be protected. Unfortunately, a practice has developed whereby those defying *shariah* and the law, facilitated by some lawyers, adopt various nefarious means, including taking the plea of pending litigation in depriving legal heirs from what is rightfully theirs.

6. The filing of this frivolous petition and the dishonest tactics employed by the petitioner justifies the dismissal of this petition with costs in the sum of three hundred thousand rupees, which the petitioner is directed to pay equally to the respondents who have been deprived of their legal shares. The said respondents will also be justified to claim mesne profits for all the days that the petitioner does not abide by the said '*Consent/Joint Statement*'.

Chief Justice

Judge

Judge

Islamabad:

02.10.2024

(Muhammad Asif Siddiqui)

Approved for reporting