

BEFORE THE SERVICE TRIBUNAL, PESHAWAR

Appeal No892/2023

Hearing 14-09-2023

BACHA KHITAB


V/s

SECRETARY etc

Index:

| S/No | Documents | Annexure Nos | Pages No | |
|------|--|--------------|----------|------|
| | | | From | To |
| 1 | Application +Affidavit | ----- | 1 | 1(a) |
| 3 | Documents restraining to compromise | ----- "A" | 2 | 22 |
| | | Total | | 22 |
| | | | | |

Date: 14-09-2023


Applicant
(Bacha Khitab)
Through Aman
Advent
Nardar

BEFORE THE SERVICE TRIBUNAL, PESHAWAR

APPEAL NO 892/2023

HEARING 14-09-2023

BACHA KHITAB

V/S

THE SECRETARY ETC.

APPLICATION ON BEHALF OF APPELLANT FOR SINE – DIE

Khyber Pakhtunkhwa
Service Tribunal

ADJOURNMENT OF THE APPEAL.

Diary No. _____

Date: _____

1. That the captioned appeal is pending adjudication for 14.09.2023
2. That the appellant was falsely ^{implicated} nominated along in criminal case with other relatives ⁱⁿ case vide FIR NO. 273/30.04.2013 of PS Sadar Mardan wherein, the application for grant of BBA was pending for 10-01-2013 and the main criminal case was also fixed on the same day in the same court, which the Bail Application was accepted on 10-01-2013, and compromise application was processed in main case through the local commission (through an advocate) which the statements of the legal heirs of the deceased person, were recorded and ^{had been} submitted to the concerned court on 06-01-2023.
(Attested Copies Attached)
3. That the main case is yet pending adjudication.
4. That under mis-conception, it is mentioned in Para No. 3 of the Service Appeal that the case is decided and that the appellant is acquitted.
5. That since the compromise is accepted and there is every likelihood of acquittal of appellant.
6. That for the proper adjudication of the captioned service appeal, the same needs to be Stayed till the adjudication of the referred criminal case.

It is prayed that the captioned service, appeal may be ordered to be ^{adjoined sine die} stayed till ^{the} ~~the~~ decision of the referred criminal case.

til the decision of the referred criminal case.

Dated 14.9.2023.

PTD

Appellant ^{for} *Bacha Khitab*
(Bacha Khitab)
Through: *Azeem*
Advocate

1(a)

BEFORE THE SERVICE TRIBUNAL, PESHAWAR

APPEAL NO 892/2023

HEARING 14-09-2023

BACHA KHITAB

V/S

THE SECRETARY ETC

AFFIDAVIT

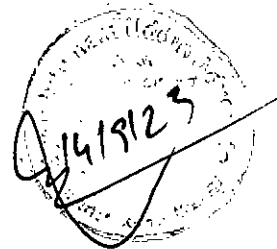
I, Bacha Khitab / the Appellant, do hereby stated on solemn affirmation that the contents of the above ^{application} ~~Appeal~~ are true and correct to the best of my knowledge and belief and nothing is concealed from this Honorable Tribunal.

Dated 14.9.2023

Deponent: _____

Bacha Khitab

(Bacha Khitab)



Before the Honorable Additional Sessions Judge / Child Protection (at Mardan) P# 2 Annex-A Attached

State Vs Badshah Khatiband other (Complainant) (Accused / Petitioners)

FIR No 273 Dated 30-4-2013

U/s 302, 324, 34 PPC PS Jaddar

Subject: Commission Report

Honourable Madam / Report of Local Commission is as under

Respectfully Sheweth!

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Session Court Mardan

(1) That i, Miss Shahria (mul Advocate High Court was appointed as Local Commission by this honourable Court in the above titled case through Order Sheet No 04 dated 30-4-2013 to visit the deceased mother and after thorough identification and verification of the lady to record her voluntary statement regarding compromise between the Parties and report my Commission

P.T.O

Report to this Honourable Court. (Copy of Order and Notice are attached)

(2) That after receipt of Notice from this Honourable Court, the Local Commission informed the concerned Parties of the day and time of execution of my Commission Proceeding.

(3) That on the fixed day and time the Local Commission visited the concerned lady and after due identification and verification of the lady by her husband and Elder of locality being her near relative too recorded her volunteer statement regarding compromise between the Parties.

(Statement of deceased mother is attached).

(4) That the Local Commission prepared her report after recording of statement of the lady of the true facts in compliance of Honourable Court's direction.

(5) That the Local Commission submits her report to this Honourable Court after her due satisfaction.

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Date 6-01-2023

Local Commission
Miss Shahana Gul
Advocate High Court
Distt Courts Mardan

16 JAN 2023

Examiner Copying Branch
Session Court Mardan

SHAHANA GUL
Advocate
Distt Courts Mardan

Note: My Commission Report consists of 6 Pages.

~~P#1~~
 5 Statement of Mst Nihar Begum
 w/o Muhammad Younis mother of
 deceased Tayyib Mahallah Peran, Village
 Rojar Garhi, Tehsil and Distt Mardan on oath
 before Local Commission;

Stated that i, mother of deceased Tayyib
 voluntarily and without any force and fraud
 and with my own sweet will states before
 Local Commission that the accused
 Badshah Khatib and Murad were charged
 w/s 302, 324, 34 PPC in case of my
 deceased son which are facing trial
 So now after the intervention of
 elders of our locality have
 pardoned both the accused in the
 name of ALMIGHTY ALLAH
 waiving off our all rights of
 Diyat etc in our best interests
 and now we do not have any
 doubt or objection against the
 accused and i along with
 other legal heirs
 of deceased pray
P.T.O

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P#2 (4)

To this Honourable Court
 For acquittal of
 both the accused
 namely Badshah Khatap
 and Murad facing trial
 and who are presently on
 ad interim bail before
 this Honourable Court so;
 record my statement before Local Commission
 which is true and correct.

Shaharful
 SHAHARFUL
 Advocate
 Dist Courts Mardan

Date-6-01-23

Identified and Verified by

Witness No (1)

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16 JAN 2023

Local Commission
 Miss Shaharful
 Advocate High Court
 Dist Courts Mardan

Witness No 2

Examiner Copying Branch
 Session Court Mardan

16102-4755230-3/10
 Muhammed Touqeer

M/o Nihar Begum
 M/o Mahallah P/o
 Rojar Garhi, Tehsil
 ad Distt Courts
 Mardan

16102-1718301-2/11

Mst Nihar Begum
 mother of deceased
 M/o Mahallah Piran, P/o Rojar
 Garhi, Tehsil ad Distt
 Mardan

S. Rameez Shah

16102-4545902-3/10

Raj Wali Shah s/o
 Dilbar Shah M/o
 Mahallah Qazi Sahib
 P/o Rojar Garhi, Tehsil
 ad Distt Courts
 Mardan - (Local Sdars)

Attested
Aman

(5)

Joint Statement of Elders of Locality namely:-

- (1) Sabiq un Nihar S/O Haji Gulzad Mir.
(2) Raj Wali Shah S/O Dilbar Shah R/O Gujar Garhi, Mardan on oath.

Stated that we being elders of locality have effected a genuine compromise between the parties in the case FIR No. 273 dated 30.04.2013 u/sec 302/324/34 PPC of PS Saddar, Mardan. Legal heirs of the deceased- Muhammad Tayyib have pardoned the accused/petitioners Badshah Khitab and Murad in the name of Almighty Allah by waiving off their rights of Qisas and Diyat. The compromise is genuine, without force and coercion and in the best interest of parties.

RO & AC.
Dt. 05.01.2023.

(Lubna Zaman)
Additional Sessions Judge-VI/
Judge, Child Protection Court, Mardan.

Sabiq un Nihar (Elder of locality)
CNIC No. 16102-5238601-9

Raj Wali Shah (Elder of locality)
CNIC No. 16102-9545902-9

(Lubna Zaman)
Additional Sessions Judge-VI/
Judge, Child Protection Court, Mardan.

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Session Court Mardan

Attended
Aman

6

**Statement of Muhammad Younas S/O Pasham Gul
(Complainant/Father of deceased Muhammad Tayyib) R/O Gujar
Garhi, District Mardan on oath.**

Stated that for the murder of my deceased son Muhammad Tayyib, an FIR No. 273 dated 30.04.2013 u/sec 302/324/34 PPC of PS Saddar, Mardan was registered against the accused/ petitioners namely Badshah Khitab S/O Sardar Khitab and Murad S/O Rasool Shah residents of Gujar Garhi Mardan, however, now the matter has been compromised privately with the intervention of elders of locality and I being legal heir/father of deceased waived off my right of Qisas and Diyat. Thus, we have got no objection on the confirmation of BBA of accused/ petitioners as well as their acquittal at trial stage. To this effect I furnish the compromise/Diyat proforma including my as well as elders affidavits as well as my CNIC copy, which is Ex.PA.

RO & AC.
Dt. 05.01.2023



~~(LUBNA ZAMAN)~~
Additional Sessions Judge-VI/
Judge, Child Protection Court,
Mardan.

Muhammad Younas (Complainant/Father of
Deceased Muhammad Tayyib)
CNIC No. 16102-4755238-3

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Session Court Mardan

Attorney
Aman

(7)

Before the Session Court Mardan

Badshah khitab etc v/s State.

BBA.

Subject: Application on behalf of Accused for the Appointment of commission to record the statement of Mst. Nehar Baigam on the basis of compromise.

Order - 4
05/1/2023

Respectfully sheweth:

- 1 - That the above mention case is pending before this court which is fixed for today. AST - VI
Mardan
- 2 - That a compromise has been effected between the Parties by the statements of the legal heirs of the deceased has been recorded except Mst. Nehar Baigam the mother of the deceased.
- 3 - That the mother of the deceased Mst. Nehar Baigam is of an old age and sick, resting on bed, therefore her statement may be recorded through commission.

It is therefore humbly requested that the statement of Mst. Nehar Baigam may kindly be recorded through commission.

Date 5-01-2023

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Session Court Mardan

Through

Badshah khitab etc

Accused / Petitioner,

Council
[Signature]

Attached
Aman

81

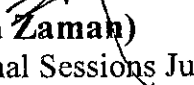
Badshah Khitab Vs..... The State
BBA Petition No. 464/BBA of 2022.

Statement of Ms. Shahana Gul Advocate, local commission.

Stated that I was appointed as local commission in the case FIR No. 273 dated 30.04.2013 u/sec 302/324/34 PPC of PS Saddar, Mardan for recording statement of Mst; Nihar Begum (legal heir/mother of deceased namely Muhammad Tayyib) in respect of compromise arrived at between the parties. Resultantly, I went to the house of the said LR and recorded her statement regarding the factum of compromise wherein she admitted the factum of compromise between the parties and also disclosed that the compromise has been effected with her free will and consent. I also verified LR named above through her husband Muhammad Younas and local elder Raj Wali Shah being her relative. I submit my commission report in this respect which is Ex.CW-1/1 including statement & CNIC copy of LR. My report is correct and correctly bears my signature. Statements of LR also bears my signature.

RO & AC.

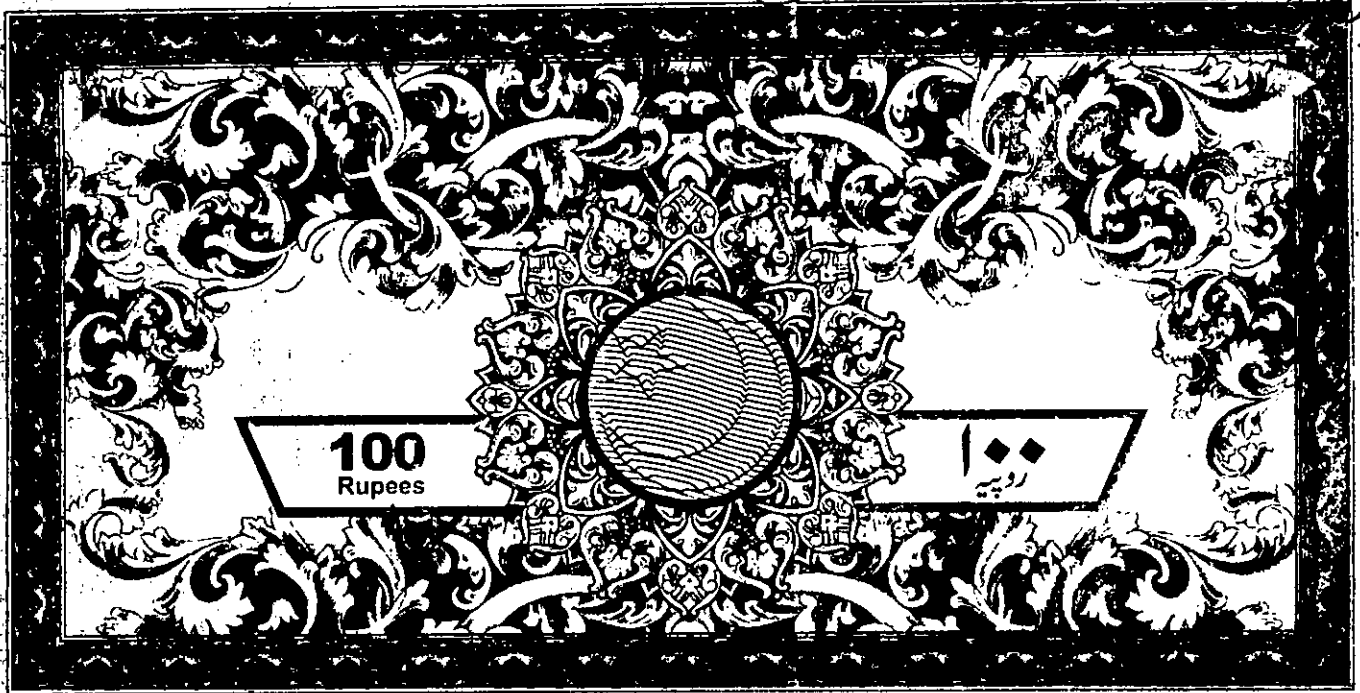
Dt. 10.01.2023


(Lubna Zaman)
Additional Sessions Judge-VI, Mardan.

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Session Court Mardan



EXPA

PROFORMA FOR COMPROMISE EFFECTING UNDER QISAS DIAT
ORDINANCE.

- | | | |
|---|---|--|
| 1 | Name of accused with parentage & addresses. | Bacha Khitab S/o Sardar Khitab, Murad S/o Rasool Shah R/o Gujar Garhi Mardau |
| 2 | Convictions & sentence awarded. | In the court of ASJ /Child Protection Court For acquittal of accused. |
| 3 | Names of deceased / injured persons with Parentage | Tayyab S/o Muhammad Younis deceased |
| 4 | Name of injured person with parentage and With address | Muhammad Younis father of deceased |
| 5 | Nature of the offence | U/S - .302/324/34-ppc Dated 273 P.S Saddar dated 30/04/2013 |
| 6 | (a) Rate of silver notified by the Gov't, on 1 st July of the year with reference to the compromise. | Rs. 90,00,000/- |
| | (b) Total cost of 30,650 grams of silver. | Rs. 90,00,000/- |
| 7 | Total amount of Diyat or Arsh paid | the deceased paid Rs. 42,50,000/- as Diyat Amount to the legal heirs of deceased. |

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Session Court Mardau

Handwritten text in Urdu, including the number 2948 and a signature.

16102-4755 238-3



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15 JAN 2023
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Session Court Mardan

Handwritten signature or initials.

12-22

Mardan Treasury Mardan
23 JAN 2023

Attested
Aman

(11)

7 Name of the heirs of the victims who are entitled to receive and / or the names of the injured.

(A) IN CASE OF DIYAT

| NAME & NIC NO. SHARE | RELATION, IPW WITH THE DECEASED | WHETHER WAIVED COMPOUND/ NOT. |
|-------------------------|---------------------------------|-------------------------------|
| i Muhammad Younis | Father | Waived |
| ii Mst.Mst. Nehar Begum | mother | Waived |
| iii Zain ul Abidin | brother | Waived |
| iv Muhammad Zeb | brother | Waived |
| v Zulqarnain | brother | Waived |
| vi Mst. Humaira Gul | sister | Waived |
| vii Mst. Sumaira | sister | Waived |

IN CASE OF ARSH

| NAME & NIC NO. AMOUNT RECEIVED | WHETHER WAIVED COMPOUND OR |
|--------------------------------|----------------------------|
| NOT | |

N/A

(B) in case of Daman (whether a specific request made to the court for determination of the amount.

N/A

8 a names of the minors heirs of the deceased with full particulars of the guardian and his/her relationship.

N/A

b steps taken to safeguard/protect the interest of minors/women heirs of the deceased.

N/A

Contd.....p-3

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Session Court Mardan

12

9 Mode of payment of Diyat Arsh and Daman

As per serial No.6 above.

10 certificate from the Nazim/Nazim member union council in proof of correctness of the particulars of the heirs.

ATTACHED

11 Affidavit by each heir of the victims and/or certifying waiving or compounding against receipt of Badl-e-Suleh or Arsh otherwise.

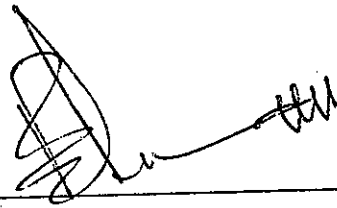
ATTACHED

12 Financial position of the

Accused.....poor

Decd's heirs.....poor

Dated 10/12/2022



Signature of the learned counsel

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16 JAN 2023

**Examiner Copying Branch
Session Court Mardan**

13

Attested
Aman

AFFIDAVIT

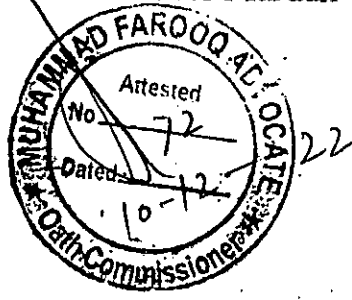
I, Mst Nehar Begum wife of Muhammad Younis mother of deceased Tayyab R/o Mohallah Piran, Village Gujar Garhi, Tehsil & District Mardan do hereby solemnly affirm and declare on oath;

That the contents of the attached proforma of compromise are true and correct to the best of my knowledge and belief.

Dated 10/12/2022

Mst. Nehar Begum Mother
CNIC. 16102-1718301-2

ATTESTED
Oath commissioner Mardan



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16 JAN 2023

Examiner Copying Branch
Session Court Mardan

22

14

Attested
Amir

AFFIDAVIT

I, Zulqarnain son of Muhammad Younis R/ Mohallah Piran,
Village Gujar Garhi, Tehsil & District Mardan brother of
deceased Tayyab do hereby solemnly affirm and declare on oath;

That the contents of the attached proforma of compromise are
true and correct to the best of my knowledge and belief.

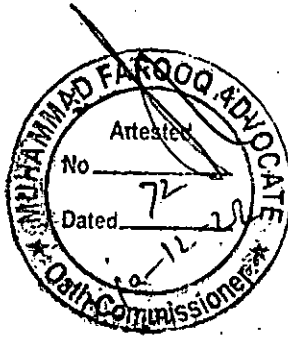
Dated 10/12/2022

Zulqarnain brother of deceased
CNIC. 16102-2983569-7

ذوالقرنین



ATTESTED
Oath commissioner Mardan



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16 JAN 2023

Examiner Copying Branch
Session Court Mardan

15

Attested
Aman

AFFIDAVIT

I, Zain ul Abidin son of Muhammad Younis R/ Mohallah Piran,
Village Gujar Garhi, Tehsil & District Mardan brother of
deceased Tayyab do hereby solemnly affirm and declare on oath;

That the contents of the attached proforma of compromise are
true and correct to the best of my knowledge and belief.

Dated 10/12/2022

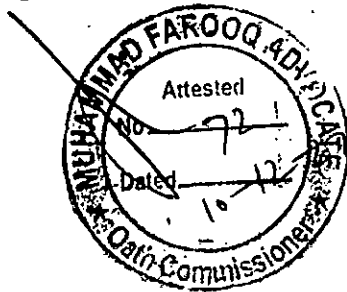
Zain ul Abidin brother of deceased
CNIC . 16102-0372688-3



[Handwritten signature]

ATTESTED

Oath commissioner Mardan



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16 JAN 2023

Examiner Copying Branch
Session Court Mardan

16

Attested
Akhwan

[Handwritten mark]

AFFIDAVIT

I, Muhammad Zeb son of Muhammad Younis R/ Mohallah Piran, Village Gujar Garhi, Tehsil & District Mardan brother of deceased Tayyab do hereby solemnly affirm and declare on oath;

That the contents of the attached proforma of compromise are true and correct to the best of my knowledge and belief.

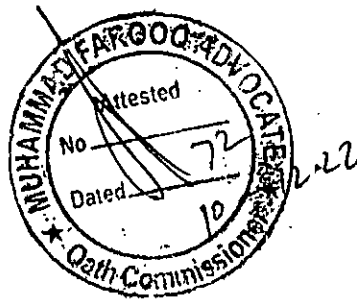
Dated 10/12/2022

Muhammad Zeb
brother of deceased
CNIC. 16102-4763460-5



[Handwritten signature]

ATTESTED
Oath commissioner Mardan



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16 JAN 2023

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Session Court Mardan

(17) *Attended*
Aman

AFFIDAVIT

I, Muhammad Younis son of Pasham Gul father of deceased Tayab, I also the complainant of case FIR No. 273 dated 30/04/2013 under section 302/324/34-ppc P.S Saddar Mardan which was lodged by me which was lodged against the accused named above, that I had also injured of the occurrence. Now, on the intervention of the elders of the locality, I and other legal heirs of the deceased effected a genuine compromise with the accused and pardoned them. The accused party also paid the amount of DIYAT to the legal heirs of the deceased.

Now if this Hon'able court release or acquit the accused, I have got no objection upon the same.

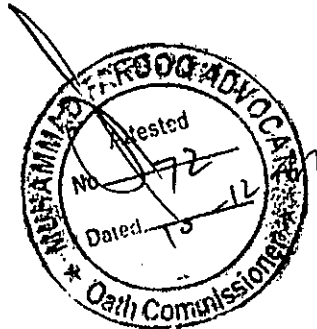
That the contents of the attached proforma of compromise are true and correct to the best of my knowledge and belief.

Dated 10/12/2022

Muhammad Younis
Father of deceased & complainant
CNIC . 16102-4755238-3

[Signature]
ATTESTED

Oath commissioner Mardan



Certified To Be True Copy

[Signature]
16 JAN 2023

Examiner Copying Branch
Session Court Mardan

AFFIDAVIT

18

Attested
Aman

I, Mst. Humaira Gul daughter of Muhammad Younis R/o Mohallah Piran, Village Gujar Garhi, Tehsil & District Mardan sister of deceased Tayyab do hereby solemnly affirm and declare on oath;

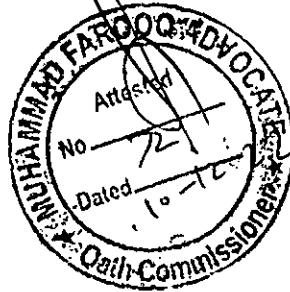
That the contents of the attached proforma of compromise are true and correct to the best of my knowledge and belief.

Dated 10/12/2022

Mst. Humaira Gul sister of deceased
CNIC.16102-3152559-8



ATTESTED
Oath commissioner Mardan



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16 JAN 2023

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Session Court Mardan

AFFIDAVIT

19

Attested
Suma

I, Mst. Sumaira daughter of Muhammad Younis R/o Mohallah Piran, Village Gujar Garhi, Tehsil & District Mardan sister of deceased Tayyab do hereby solemnly affirm and declare on oath;

That the contents of the attached proforma of compromise are true and correct to the best of my knowledge and belief.

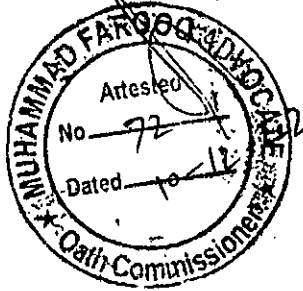
Dated 10/12/2022

Mst. Sumaira sister of deceased
Through Muhammad Younis father

Identified by
Muhammad Younis
Father
CNIC. 16102-4755238-3



ATTESTED
Oath commissioner Mardan



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16 JAN 2023

Examiner Copying Branch
Session Court Mardan

(20)

Attested
Aman

UNDER TAKING

I, Fida Muhammad son of Miraj Muhammad R/o Jehangir Abad, Tehsil Takht Bhai, District Mardan elder of the locality, do hereby undertake as under:-

That the contents of the attached proforma of compromise and affidavits taken by each legal heirs of the deceased are true and correct to the best of my knowledge and belief. Nothing has been concealed from this Hon'able court.

Dated:- 10/12/2022

Fida Muhammad

Elder of the locality

CNIC-16102-3861387-9



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16 JAN 2023

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Session Court Mardan

(2)

Attested
Mardan

UNDER TAKING

I, Sabiq un Nihar son of Gulzad Mir R/o Gujar Garhi, Tehsil & District Mardan elder of the locality, do hereby undertake as under:-

That the contents of the attached proforma of compromise and affidavits taken by each legal heirs of the deceased are true and correct to the best of my knowledge and belief. Nothing has been concealed from this Hon'able court.

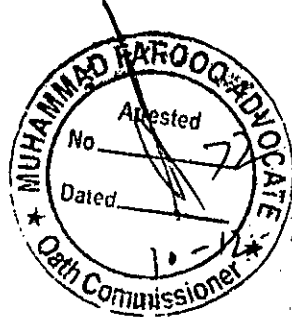
Dated:- 10/12/2022

Sabiq un Nihar

سابق نهار

Elder of the locality

CNIC-16102-5238601-9



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16 JAN 2023

Examiner Copying Branch
Session Court Mardan

UNDER TAKING

22

I, Rajwali Shah S/o Dilber Shah R/o Mohallah Qazi Sahib,
Gujargarhi, Tehsil & District Mardan elder of the locality, do
hereby undertake as under:-

That the contents of the attached proforma of compromise and
affidavits taken by each legal heirs of the deceased are true and
correct to the best of my knowledge and belief. Nothing has
been concealed from this Hon'able court.

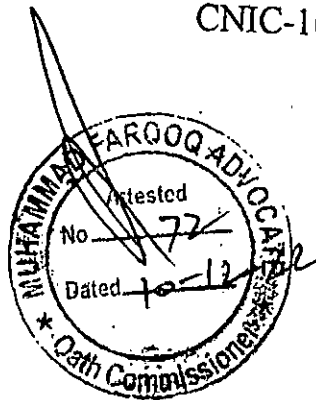
Dated:- 10/12/2022

Rajwali Shah

S. Rajwali Shah

Elder of the locality

CNIC-16102-9545902-9



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16 JAN 2023

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Session Court Mardan