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LAILA BANO VS AZEEM ALI ETC

PETITION U/S 491 CR. PC

**IN THE COURT OF BAKHT ZADA ADDITIONAL SESSIONS JUDGE-
I, ORAKZAI AT BABER MELA**

Cr. Misc: Petition u/s 491. No: 02/04 of 2024

Date of Institution : 23.01.2025

Date of Decision : 25.01.2025

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ORDER

25.01.2025

Petitioner Mst. Laila Bano along with Insaf Ali Advocate present. Respondent Mujahid Khan SHO PS Kurez Boya along with minors (1) Mir Abbas aged about 01 years (2) Miqdad Haider aged about 02 years and (3) Moazam Ali aged about 06 years present.

2. The petitioner has submitted the instant application u/s 491 Cr. PC for recovery of her minors children, who were forcibly taken away by her husband respondent No. 1 Azeem Ali along with respondents no. 2 and 3. According to petitioner, her marriage took place with respondent no. 1 some 12 years back and as a result of the said wedlock she has given birth to the above named three children and that she is presently pregnant. That relationship between the spouses were strained since the very inception and that now on 12.01.2025 at 11:00 am when she was alone in the house of her father, the respondents entered their house and after beating her forcibly taken away the minors with them and hence the instant petition.

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3. Notice to SHO PS concerned and bailiff of the court was issued for recovery of minors and production of respondents. Today, Mujahid Khan SHO PS Kurez Boya along with Bailiff of the court produced all the three minors along with respondent no. 2 Kabir Ali (Grandfather of minors). The SHO stated at the bar that respondent no. 1 has left the house and has gone to unknow destination.

4. The minors Mir Abbas is one year old and is a suckling baby while minor Miqdad Haider is two years old. Grandfather of minors stated at the bar that he has got no objection on handing over the minors to their mother. Minor Moazzam Ali is about 06 years old and he is not willing to go with his mother and stated that he is happy with his grandfather. The petitioner/mother of the minors stated that she has got no objection if minors Moazzam Ali live with his grandfather for the time being. Her statement recorded and duly signed by the petitioner and respondent no. 2.

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Orakzai at Harigu

5. Minor Mir Abbas is a suckling baby while Miqdad Haider is only two years old. After taking away respondent no. 1 kept them under the custody of his joint family. Keeping in view the ages of the minors it will not be easy for someone else to maintain them and at present they need love care and affection of their mother. Prima facie father of the minors seems to be an irresponsible husband and father, who in such a

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critical health condition has compelled the petitioner to indulge in hectic and tiresome process of litigation. The suckling baby could be brought up properly by the mother only and his custody with anyone except the real mother is improper. The custody of minors Mir Abbas and Miqdad Haider is handed over to petitioner while Moazzam Ali will remain in the custody of his grandfather with his sweet will and consent of the petitioner for the time being. The petitioner or respondent if aggrieved, are at liberty to apply for the custody (Hizanat) of minors in accordance with law before the court of competent jurisdiction, if they wish so. The instant application is disposed of accordingly.

6. File of this court be consigned to record room.

Announced
25.01.2025


25.1.25

BAKHT ZADA
Additional Sessions Judge-I, Orakzai
at Baber Mela