

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No.2522/2019.

Abdul Sattar and another

Versus

Additional Sessions Judge, Islamabad, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	05.07.2019.	Mr. Muhammad Iftikhar Hussain Satti, Advocate for petitioners.

Through this writ petition the petitioner has assailed the order dated 15.05.2019, passed by learned Additional Sessions Judge-III (East), Islamabad, whereby application U/S 491 Cr.P.C. for recovery of minor namely Ayesha Fatima was dismissed.

2. Learned counsel for the petitioners contends that petitioners are paternal grandparents of the minor Ayesha Fatima born on 04.04.2015, who is in custody of respondent No.2 Mst. Zakeeda/mother of minor, whereas real father of the minor and husband of respondent No.2 has died on 10.02.2019 as his dead body was found near Rawal Dam.

3. Learned counsel for the petitioners has been confronted regarding the impugned order, whereby it was proposed that question of welfare of minor could only be resolved through Guardian Court concerned, whereby he contends that petitioners have not yet initiated any such proceedings and this Court has to adjudicate upon the question of welfare of minor under

the law.

4. Keeping in view the above background, respondent No.2 is real mother of minor namely Ayesha Fatima, aged about 04 years born on 04.04.2015, as such real mother is natural guardian and proper person in whose custody welfare of the minor lies, therefore, at this stage, claim raised by the petitioners could not be adjudicated upon in constitutional jurisdiction as all these questions could only be considered by the concerned Guardian Court, if petitioner intends to proceed in this regard. Hence, instant petition is misconceived and the same is hereby *dismissed in limine.*

(MOHSIN AKHTAR KAYANI)
JUDGE

Zahid