

Inheritance of Full Sister/s with Consanguine Brother/s in Pakistan: A Critical Analysis of *Saadullah v Gulbanda*

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Abstract

In Pakistan, *Hanafi* version of Islamic law of inheritance is followed by the courts in view of overwhelming number of Sunni *Hanafi* Muslims unless proved otherwise. Despite accurate appraisal of Islamic law of inheritance by the superior courts in general, one specific issue has been causing problem for last many years. In *Saadullah v Gulbanda* (2014 SCMR 1205), the Supreme Court excluded consanguine brother from inheritance in presence of full sisters that stirred debate about entitlement of those residuaries who are remotely related to deceased than full sister/s. This judgment is based on the faulty appraisal of Islamic law of inheritance by misreading the chart of residuaries prepared by D. F. Mulla's *Principles of Muhammadan Law*. Case law analysis in the article reveals that, prior to the above mentioned case, the courts appreciated the analogous matters more accurately. The article presents correct perspective of Islamic law of inheritance on the subject with an expectation that the Supreme Court would revisit its erroneous approach for the protection of inheritance rights of eligible legal heirs.

Keywords: Islamic Law of Inheritance; Sharers; Residuaries; Full Sister; Consanguine Brother; Supreme Court of Pakistan.

Introduction:

Islamic law of inheritance is a complicated subject which is mainly divided into two categories, i.e., Sunni law of inheritance and *Shīah* law of inheritance.¹ Further, there are differences among various Sunni schools on some important issues. For instance, *Mālikī* and *Shāfi'ī* schools do not allocate inheritance to distant kindred and prefer to deposit the remainder of an estate in Muslim treasury for benefit of Muslim community.² Various schools differ about distribution of inheritance between paternal grandfather and brother/s.³ Furthermore, the doctrine of *radd* is not recognized by *Imām* Malik.⁴

In Pakistan, considering overwhelming number of Sunni Muslims, it is judicially presumed that all Muslims are the follower of Sunni schools unless it is proved otherwise that someone is adherent of *Shīah* school of law. It is further judicially presumed that all Sunni Muslims are the followers of *Hanafi* school unless otherwise substantiated by

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¹ Lucy Carroll, *Hanafi* Law of Intestate Succession: A Simplified Approach, (1983) 17(4), Modern Asian Studies; Lucy Carroll, The Ithna Ashari Law of Intestate Succession: An Introduction to *Shīah* Law Applicable to South Asia, (1985) 19(1), Modern Asian Studies 85-124; Shahbaz Ahmad Cheema, Sunni and *Shīah* Laws of Inheritance: A Comparative Analysis, (2012) 10, Pakistan Journal of Islamic Research.

² Tanzil-ur-Rahman, A Code of Muslim Personal Law (Vol. 2) (Karachi: Islamic Publishers, 1980), 536; Shahbaz Ahmad Cheema, Islamic Law of Inheritance: Practices in Pakistan (Islamabad: *Sharī'ah* Academy, 2017), 126.

³ Cheema, Islamic Law of Inheritance, 84-86.

⁴ Rahman, Muslim Personal Law, 530.

evidence in the courts.⁵ These presumptions give salience to *Hanafi* School in the application of inheritance law.

The courts in Pakistan for the ascertainment of any issue pertaining to law of inheritance are not obliged to meticulously follow any standard book. They may determine contentious issues in this domain from any book on Islamic law. However, some books have acquired more prominence than what they deserve and the standard illustration of this is D. F. Mulla's *Principles of Muhammadan Law*.⁶ In context of the present article, Mulla's book has played contributive role in formulation a bad precedent that needs to be reconsidered in light of authentic appraisal of *Hanafi* law of inheritance for protection of rights of eligible legal heirs.

This paper explains various situations in which a sister inherits and its implications on those residuaries who are located at comparatively lower ladders than her in D. F. Mulla's chart of residuaries.⁷ This issue has been consistently proving irksome to the superior judiciary of Pakistan for last many years. In *Saadullah v Gulbanda*,⁸ the Supreme Court adopted an erroneous approach, and recently, the Islamabad High Court in *Muhammad Tariq v Sabira Bibi*,⁹ has followed the same approach uncritically. The question before the Supreme Court and Islamabad High Court was to resolve a dispute of inheritance between full sister/s and consanguine brother/s. In both cases, the courts treated the full sister/s as residuary of higher rank as compared to consanguine brother/s and deprived the latter from having any share in the disputed estate. In both cases, the courts misread the chart of residuaries in Mulla's *Principles of Muhammadan Law*,¹⁰ and then took their misreading as an accurate exposition of *Hanafi* school of law without bothering to explore the controversy surveying other books of authority. To some extent, the chart referred to above is misleading for those who do not possess an appreciation of rules of inheritance.

Meanwhile, the Lahore High Court, in *Shah Jahan Begum v Zafar Ahmed*,¹¹ has made an attempt to rectify the mistaken approach of the Supreme Court, but it has yet to be seen whether this corrective appraisal of inheritance law on the subject would find favor with the Supreme Court. Prior to *Saadullah v Gulbanda*,¹² the superior judiciary in some cases demonstrated an accurate application of law on the issue of inheritance between full sister and consanguine brother or other remotely situated residuaries than her on D. F. Mulla's chart of residuaries.¹³ However, the last mentioned case of the Supreme Court has pushed such cases away from judicial sight.

The rest of the paper is divided in four sections followed by a conclusion. The first section discusses the factual and argumentative aspects of the cases decided by the

⁵ *Ghulam Shabbir v Bakhat Khatoon* 2009 SCMR 644; *Latifa Bibi v Rehmat Ali* 2012 SCMR 1251.

⁶ Shahbaz Ahmad Cheema, Mulla's *Principles of Mahomedan Law* in Pakistani Courts: Undoing/Unraveling the Colonial Enterprise? LUMS Law Journal, 4(1), (2017), 56-79.

⁷ M. A. Mannan (ed), *D. F. Mulla's Principles of Mahomedan Law*, (Lahore: PLD Publishers, 1995), 100-102.

⁸ 2014 SCMR 1205

⁹ Case No. : C.R. NO.442-D-2003. Available at http://mis.ihc.gov.pk/attachments/judgements/C.R-442-D-2003_637226448299970541.pdf (Last accessed: on 18/05/2020).

¹⁰ Mannan, *Mulla's Principles*, 100-102.

¹¹ PLD 2018 Lahore 426

¹² 2014 SCMR 1205

¹³ Mannan, *Mulla's Principles*, 100-102.

Supreme Court and Islamabad High Court which have misunderstood the law on the subject. The second section explicates the rules of inheritance involving sister/s to reframe the controversy in real perspective to ward off deprivation of eligible legal heirs. The third section summarizes those cases in which the superior courts have implemented the correct rules of *Hanafi* law of inheritance on the subject. And the last section briefly describes the doctrine of *radd* (return) in context of the cases decided by the Supreme Court and the Islamabad High Court. It is appropriate to state at the outset, taking into account the complex nature of Islamic law of inheritance, the present article does not aim to explain the law of inheritance comprehensively and expects the readers to possess its basic knowledge.

Analysis of *Saadullah v Gulbanda* and its Consequences:

In *Saadullah v Gulbanda*,¹⁴ Badshah Mir died issueless leaving behind his mother, three full sisters including the respondent and one consanguine brother, i.e., Rehmat Khan. The appellants in the case were legal heirs of the consanguine brother. In 1973, the suit land was mutated to the legal heirs of Badshah Mir as under:

Mother: 1/6 (as sharer)

Three full sisters: 2/3 (as sharer), and

Consanguine brother: 1/6 (as residuary).

Gulbanda challenged the share of 1/6 granted to the consanguine brother and initiated a civil suit for setting it aside. The suit was decreed by the court and 1/6 share was also reverted to the full sisters in addition to their prescribed share, i.e. 2/3, under the principle of *radd* (return). The appellants challenged this decision in the first appellate court, and then filed a revision petition before the high court, but could not get a favorable decision. The appellants were of the view that the consanguine brother was entitled to award of 1/6 share in the estate of Badshah Khan as residuary. Eventually, they brought their claim before the Supreme Court.

The Supreme Court framed the legal controversy relating to 1/6 share initially awarded to the consanguine brother in the following manner:

“[W]hether under the category of residuaries, per Muhammadan Law, it [i.e., 1/6] would devolve upon three real sisters of the deceased in preference to consanguine brother by following the doctrine of return (Radd), or it would go to Rehmat Khan as residuary, being consanguine brother of the deceased.”¹⁵

The court, after reproducing the *Qur’anic* verse 4:176¹⁶ and the chart of residuaries in Mulla’s *Principles of Muhammadan Law*,¹⁷ observed that the full sisters were nearer in degree of relationship with the deceased than the consanguine brother, and held that they were entitled to 1/6th share in preference to him. Some important observations of the Supreme Court are reproduced as under:

¹⁴ 2014 SCMR 1205

¹⁵ *Ibid.*, 1208.

¹⁶ “They ask thee for a legal decision. Say: Allah directs (thus) about those who leave no descendants or ascendants as heirs. If it is a man that dies leaving a sister but no child she shall have half the inheritance: if (such a deceased was) a woman who left no child her brother takes her inheritance: if there are two sisters they shall have two-thirds of the inheritance (between them): if there are brothers and sisters (they share) the male having twice the share of the female. Thus doth Allah make clear to you (His law) lest ye err. And Allah hath knowledge of all things” (4:176 Translation by Yusuf Ali).

¹⁷ Mannan, *Mulla’s Principles*, 100-102.

“In this regard, we have perused the table of residuaries in the form of a chart given in the book “Principles of Mahomedan Law” by D.F. Mulla, a renowned scholar, researcher and jurist, and seen that the real sisters being nearer in degree of relationship with the deceased stand at serial No.6, while the consanguine brother stands at serial No.7.”¹⁸

Thereafter, the court reproduced the entire chart of residuaries from Mulla’s *Principles of Muhammadan law*. I am reproducing relevant excerpts below:

“TABLE OF RESIDUARIES IN ORDER OF SUCCESSION- Sunni Law ...

(5) FULL BROTHER.

FULL SISTER- takes as a residuary with full brother, the brother taking a double portion.

(6) FULL SISTER- In default of full brother and the other residuaries above-named, the full sister takes the residue

(7) CONSANGUINE BROTHERS.

CONSANGUINE SISTER- takes a residuary with consanguine brother, the brother, taking a double portion. ...”¹⁹

The court concluded as:

“[t]his being the legal position, the only submission of the learned Advocate Supreme Court for the appellants that since 2/3rd share has been already inherited by the three real sisters of the deceased in their capacity as sharers, therefore, the remaining 1/6th share of the estate of the deceased would devolve on his consanguine brother, arrayed at serial No.7 of the residuary, is ill-founded and misconceived. As applying the doctrine of return (Radd) and rule of “exclusion”, the three sisters of the deceased would not only inherit 2/3rd share, as sharers, from the estate of their deceased real brother, having died issueless but being nearer in the category of residuary at serial No. 6, the remaining 1/6th share will also devolve upon them in such capacity.”²⁰

It is worth-noting that in all editions D. F. Mulla has enumerated some important conditions for full sister located at serial no. 6 on the chart of residuaries for granting her share as residuary.²¹ These conditions are important for our debate and are reproduced below:

“6. FULL SISTER. -- In default of full brother and the other residuaries abovenamed, the full sister takes the residue if any, if there be (1) a daughter or daughters, or (2) a son’s daughter or daughters h.l.s., or even if there be (3) one daughter and a son’s daughter or daughters h.l.s.”²²

Unfortunately, these conditions were not reproduced in the judgment of the Supreme Court despite reproduction of the chart of residuaries *in extenso*. The court

¹⁸ 2014 SCMR 1205, 1208.

¹⁹ Ibid., 1208-1209.

²⁰ Ibid., 1209-1210.

²¹ D. F. Mulla, *Principles of Mahomedan Law* (Bombay: Thacker & Company, 1st Edition, 1905), 52A; D. F. Mulla, *Principles of Mahomedan Law* (N. M. Tripathi & Co. Bombay, 8th Edition, 1926), 40A; D. F. Mulla, *Principles of Mahomedan Law* (The Eastern Law House Calcutta, 10th Edition, 1933), 40A; D. F. Mulla, *Principles of Mahomedan Law* by Sajba Rangnekar (ed) (The Eastern Law House Calcutta, 12th Edition, 1944), 58A; *Mulla’s Principles of Mahomedan Law* by M. Hidayatullah & Arshad Hidayatullah (Bombay: N. M. Tripathi Private Ltd., 18th Edition, 1977), 72A; Mannan, *Mulla’s Principles*, 101.

²² Mannan, *Mulla’s Principles*, 101.

highlighted importance of sequence/order mentioned in the chart of residuaries, but failed to realize the significance of the conditions enumerated by D. F. Mulla for entitlement of full sister as residuary to the exclusion of those who are situated at lower ladders in the chart than her. The court might have considered the conditions as of no avail or they might have skipped its attention unconsciously or inadvertently. Anyhow, this lapse is source of confusion and perplexity for subordinate courts and revenue officials in similar type of controversies.²³ In addition to this, the application of doctrine of *radd* in the case was of problematic nature. These issues will be explained in the second and fourth sections of the article.

*Muhammad Tariq v Sabira Bibi*²⁴ recently decided by the Islamabad High Court has made a good case for critical examination of *Saadullah v Gulbanda*²⁵ because the former is exclusively founded on the latter treating it an authoritative and binding precedent. Nonetheless, decisions based on inaccurate and faulty perspective of questions of law are not binding precedents and the superior courts may review such decisions.²⁶

In *Muhammad Tariq v Sabira Bibi*,²⁷ Qaim Din had children from two wives. His daughter Ism Jan's husband died making her entitled to some immovable property as widow. Upon her death in 1984, that property was transferred to her sister, Resham Jan, and son of their predeceased full brother Muhammad Aslam in the following manner: Resham Jan: 1/2 (as sharer), and Muhammad Aslam: 1/2 (as residuary).

Three consanguine brothers of deceased Ism Jan were not awarded any share and this led to the initiation of legal proceedings. One of the consanguine brothers challenged the half share inherited by Muhammad Aslam as residuary. It was contended that being consanguine brothers of the deceased, they were entitled to the residue of half estate in preference to Muhammad Aslam who happened to be nephew of the deceased, and hence, placed at a lower pedestal in comparison to them in the category of residuaries. The trial court dismissed the case, whereas the first appellate court decided in favor of the consanguine brothers. Eventually, the case was brought before the Islamabad High Court.

The court reframed the controversy as pertaining to the inheritance right of full sister in presence of consanguine brothers. By following the paradigm constructed by *Saadullah v Gulbanda*²⁸ and misreading the chart of residuaries provided in Mulla's *Principle of Muhammadan Law*, it decided against the consanguine brothers and held that Resham Jan was entitled to the disputed estate in two capacities -one as sharer and another residuary- to absolute exclusion of the consanguine brothers. Some important observations of the court are as under:

²³ My former students who are serving as judicial officers and revenue officials have contacted me many times on this issue for guidance and explained their inability to go against the precedent of the Supreme Court. See Article 189 of the Constitution of Pakistan (1973) that says: "Any decision of the Supreme Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts in Pakistan."

²⁴ Case No: C.R. NO.442-D-2003.

²⁵ 2014 SCMR 1205

²⁶ Muhammad Munir, Precedent in Pakistani Law (Karachi: Oxford University Press 2014); Muhammad Munir, Precedent in Islamic Law with Special Reference to the Federal Shariat Court and the Legal System in Pakistan, *Islamic Studies* 47:4 (2008), 445-482.

²⁷ Case No. : C.R. NO.442-D-2003.

²⁸ 2014 SCMR 1205

“In the table of residuaries, the order of succession as provided in ‘Principles of Muhammadan Law’ by D.F. Mulla and approved by the august Apex Court, full sister ranks higher than consanguine brothers and sisters and full brothers sons also ranks lower to the full sister and consanguine brothers and sisters. In view of above, ½ share of the estate of Mst. Ism Jan went rightly to Mst. Resham Jan who inherited the same as a sharer; since there were no other sharers, the remaining property was to devolve upon residuaries or distant kindred. The list of residuaries, in the order of preferences, is provided hereinabove, where full sister is at No.6 and consanguine brothers and sisters are at No.7 and son of deceased brother is at No.11.²⁹ Muhammad Aslam is residuary to the estate of Mst. Ism Jan and so is Mst. Resham Jan as well as plaintiffs for consanguine brothers and sisters. In the order of preferences, after receiving her share as a sharer, the remainder estate also goes to Mst. Resham Jan....”³⁰

Though the court noted that the nephew Muhammad Aslam was even placed farther lower in the chart of residuaries than the consanguine brothers, but it did not decide against that part of the case considering the fact that Resham Jan had never disputed the share granted to him.

The Islamabad High Court while setting aside the decision of the first appellate court, observed that the latter court “committed material irregularity in exercise of jurisdiction by not appreciating the correct law propounded by Hon’ble Supreme Court of Pakistan on the basis of *Hanafi* Sunni Law of Inheritance.”³¹ The court further pointed out that the dismissal of suit by the trial court was based on “wrong proposition of law.”³²

It is submitted with utmost reverence that the law discovered and applied by the Supreme Court in *Saadullah v Gulbanda*,³³ and further reinforced by the Islamabad High Court in *Muhammad Tariq v Sabria Bibi*³⁴ is a flawed application of *Hanafi* law of inheritance, and is likely to deprive many eligible legal heirs from their legitimate entitlements. This inaccurate appraisal was espoused by the courts by giving an overrated importance to sequence/order of residuaries in D. F. Mulla’s chart of residuaries.³⁵ If D. F. Mulla’s chart is taken as conclusive without paying proper considerations to various conditions for inheritance of legal heirs, it would become a source of confusion.

Implications of the above faulty appraisal, illustrated by two cases, are not confined to one specific situation: it possesses a potential of extending to other parts of the chart of residuaries by way of analogy. If this imperfect exposition of law is followed for those residuaries who are situated at lower ladders in the chart of residuaries than consanguine brother (e.g., full brother’s son at 9 and consanguine brother’s son at 10, full paternal uncle at 13), it would add to misapplications and deprivation of rights.

*Muhammad Ahmad Khan v Nashid Anum Shahid*³⁶ is a standard illustration of extended application of *Saadullah v Gulbanda*³⁷ to those residuaries who are located even

²⁹ Son of deceased’s full brother is at serial no. 9 in the chart of residuaries prepared by D. F. Mulla. Mannan, *Mulla’s Principles*, 100-102.

³⁰ Case No. : C.R. NO.442-D-2003, 07-08.

³¹ *Ibid.*, 09.

³² *Ibid.*, 10.

³³ 2014 SCMR 1205

³⁴ Case No. : C.R. NO.442-D-2003.

³⁵ Mannan, *Mulla’s Principles*, 100-102.

³⁶ PLD 2018 Islamabad, 379

farther than consanguine brother in the chart of residuaries. In this case, the deceased left behind a widow, three full sisters (serial no. 6) and paternal uncles (serial no. 13). The estate was initially distributed among the widow and three full sisters. This distribution was challenged by the paternal uncles on the ground that they were residuaries, and after disbursing the prescribed shares to the sharers, they were entitled to the residue of the estate. An application under Order 7 Rule 11 of the Civil Procedure Code³⁸ was made by the widow and the full sisters to the trial court for rejection of the paternal uncles' plaint.³⁹ The court, in light of *Saadullah v Gulbanda*,⁴⁰ concluded that the plaint did not disclose any 'cause of action'. Before the Islamabad High Court, the paternal uncles once again prayed for their right as residuaries, but of no avail. The court's decision was heavily structured on the pattern of the last mentioned case: it treated the full sisters as residuaries of higher rank as compared to the paternal uncles and dismissed the latter's petition.

In *Saadullah v Gulbanda*,⁴¹ the Supreme Court overrated the sequence/order in D. F. Mulla's chart of residuaries, and if this continues to hold authenticity, it may cause confusion for joint inheritance of full sister (serial no. 6) and consanguine sister (serial no. 8) to 2/3 as sharers under *Hanafti* law of inheritance.⁴²

In nutshell, the defective appraisal of law by the superior courts analyzed in this section is partly caused by their inability to fathom different types of residuaries along with failure to appreciate divergent roles assumed by a sister in variant capacities of legal heir. This faulty understanding of law is partly a byproduct of D. F. Mulla's configuring all kinds of residuaries in one chart downplaying distinctions among various types of residuaries.

Sister's Right to Inheritance:

Legal heirs under *Hanafti* law of inheritance are divided into three main categories, i.e., sharer, residuary and distant kindred.⁴³ The category of residuary is subdivided into three: 'residuary in his own right', residuary in another's right' and 'residuary together with another'.⁴⁴ Full or consanguine sisters are sharers, but they could

³⁷ 2014 SCMR 1205

³⁸ Order 7, Rule 11 of the Code of Civil Procedure 1908 reads as under:

"The plaint shall be rejected in the following cases:-

- a) Where it does not disclose a cause of action:
- b) Where the relief claimed is under-valued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so:
- c) Where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so:
- d) Where the suit appears from the statement in the plaint to be barred by any law."

³⁹ Plaint is a basic document that initiates legal proceedings.

⁴⁰ 2014 SCMR 1205

⁴¹ 2014 SCMR 1205

⁴² N. J. Coulson, *Succession in Muslim Family* (Cambridge: University Press, 1971), 68.

⁴³ Mannan, *Mulla's Principles*, 84; Rahman, *Muslim Personal Law*, 474 (*Dhawi al Furud, Asbat and Dhawi al-Arham*); Asaf A. A. Fyzee, *Outlines of Muhammadan Law* (edited by Tahir Mahmood), (Oxford University Press, 5th ed, 2009), 320 (*Qur'anic* heirs, agnatic heirs and uterine heirs); Hamid Khan, *The Islamic Law of Inheritance* (Oxford: University Press, 2007), 70-73.

⁴⁴ This classificatory terminology is derived from *Al-Sirajayyah* or the Mahommedan Law of Inheritance Translated by Sir William Jones (1792) & Edited by Almaric Rumsey (Calcutta:

be treated as residuaries of last two types in specific situations. Hence, there are three possible situations of inheritance of sister/s. The first is as sharer; the second is 'residuary in another's right' and the third is 'residuary together with another'.⁴⁵ We will first explain the first two situations collectively, and then revert to the third independently, because the first two are entwined and interlinked with each other under *Qur'ānic* verse 4:176, while the third is a category of its own specificity founded on a Prophetic tradition.⁴⁶

There are two verses in the *Qur'ān* which speak about inheritance of brothers and sisters of different kinds. The first is 4:12⁴⁷ and the second 4:176.⁴⁸ According to consensus among various Sunni schools of thought, 4:176 is applicable to full/consanguine brothers and sisters, while 4:12 is for uterine brothers and sisters.⁴⁹ Under 4:176, a full sister, and in her absence a consanguine sister, is entitled to inherit in three different capacities:

First, if a deceased is survived by a sister without leaving any descendent or ascendant, she would inherit half of the estate;
Second, if there are two or more than two sisters without there being any descendent or ascendant, they would have two thirds of the estate together; and
Third; if there is a mixture of brothers and sisters without there being any descendent or ascendant, each brother would have double than that of a sister.⁵⁰

Under *Qur'ānic* verse 4:176, sister/s -full or consanguine- are depicted to occupy two different statuses, i.e., sharer and residuary. In the first two situations mentioned above, she is sharer and the third situation portrays her as residuary. This category of residuary is termed as 'residuary in another's right'. It means that the legal

Thacker, Spink & Co. 2nd Edition, 1890), 23. Al-Sabuni's terminologies for the above categories are *Asabah bi-Nafsihi*, *Asabah bi-Ghairihi* and *Asabah ma'a Ghairihi* respectively. See Al-Sheikh Muhammad Ali al-Sabuni, *Al-Mawarith fi al-Shariah al-Islamiyyah fi Zao al-Kitab wa al-Sunnah* (Damascus: Dar-ul-Qalam), 67-68 & Cheema, *Islamic Law of Inheritance*, 61; Rahman, *Muslim Personal Law*, 519; Fyzee, *Muhammadan Law*, 332 (agnates in their own, agnates in the right of another, and agnates with another).

⁴⁵ See Coulson, *Succession*, 68. "Germane and consanguine sisters, when entitled to inherit, may either (a) take as *Qur'anic* heirs, or (b) be converted into residuary heirs by brothers, or (c) inherit under the special title of "accompanying residuaries"."

⁴⁶ Al-Sabuni, *Al-Mawarith*, 74.

⁴⁷ In what your wives leave your share is a half if they leave no child; but if they leave a child ye get a fourth; after payment of legacies and debts. In what ye leave their share is a fourth if ye leave no child; but if ye leave a child they get an eighth; after payment of legacies and debts. If the man or woman whose inheritance is in question has left neither ascendants nor descendants but has left a brother or a sister each one of the two gets a sixth; but if more than two they share in a third; after payment of legacies and debts; so that no loss is caused (to anyone). Thus is it ordained by Allah and Allah is All-Knowing Most Forbearing. (4:12 Translation by Yusuf Ali)

⁴⁸ They ask thee for a legal decision. Say: Allah directs (thus) about those who leave no descendants or ascendants as heirs. If it is a man that dies leaving a sister but no child she shall have half the inheritance: if (such a deceased was) a woman who left no child her brother takes her inheritance: if there are two sisters they shall have two-thirds of the inheritance (between them): if there are brothers and sisters (they share) the male having twice the share of the female. Thus doth Allah make clear to you (His law) lest ye err. And Allah hath knowledge of all things. (4:176 Translation by Yusuf Ali)

⁴⁹ Coulson, *Succession*, 65.

⁵⁰ Al-Sabuni, *Al-Mawarith*, 29; Cheema, *Islamic Law of Inheritance*, 31-32.

heir is not residuary due to her specific relationship with the deceased rather converted into residuary because of presence of another person who himself is residuary (i.e., 'residuary in his own right').⁵¹ When a sister is accompanied by her brother who is 'residuary in his own right', his presence converts her, who is basically sharer according to the first two situations mentioned in 4:176, into 'residuary in another's right'. This distinctive aspect of categories of residuaries needs to be appreciated properly that sister is never a 'residuary in her own right'. However, she could be converted by her brother into 'residuary in another's right'.

The rules applicable to full brothers and sisters in light of 4:176 are followed when a deceased leaves behind consanguine brothers and sisters exclusively. So, one consanguine sister is entitled to 1/2 of the estate and if there are two or more than two, they would collectively inherit 2/3 of the estate as sharers. And lastly, they may be converted into 'residuaries in another's right' in presence of consanguine brother/s who is 'residuary in his own right' and in this situation, each male would have double than that of a female.

The first category of residuary, i.e., 'residuary in his own right', is comprised of male legal heirs exclusively. They are subdivided into four groups for determination of their inter se preferences in inheritance:

- (a) Son and son's son h.l.s.;
- (b) Father and paternal grandfather h.h.s.;
- (c) Brothers (full and consanguine) and their son/s h.l.s.; and
- (d) Uncles and their son/s h.l.s.⁵²

The phrase 'residuary' when employed without any addition it implies this category. And when anyone intends to imply any other category of residuary (i.e., second or third), he is supposed to specify it with full description otherwise there is possibility of causing confusion.

The second category of residuary, i.e., 'residuary in another's right', is comprised of females who are originally sharers but converted into residuaries as such because of presence of a male counterpart possessing similar relationship with deceased and located at the same level. These female relatives and their potentially converting male counterparts are listed below:

- (a) Daughter is converted into 'residuary in another's right' by son;
- (b) Son's daughter is converted into 'residuary in another's right' by son's son;
- (c) Full sister is converted into 'residuary in another's right' by full brother; and
- (d) Consanguine sister is converted into 'residuary in another's right' by consanguine brother.⁵³

No distinction is specifically spelled out in the verse 4:176 about how to distribute the inheritance when a deceased leaves behind brothers and sisters from both full and consanguine categories. Such eventualities are not rare in Muslim societies because of polygamous marriages. In such situation, inheritance is determined by excluding some by others. Full brother/s completely excludes consanguine brother/s and

⁵¹ Al-Sabuni, *Al-Mawarith*, 72; Cheema, *Islamic Law of Inheritance*, 65.

⁵² Rahman, *Muslim Personal Law*, 519-521; Al-Sabuni, *Al-Mawarith*, 68; Cheema, *Islamic Law of Inheritance*, 61-62; Hamid, *Islamic Law of Inheritance*, 68.

⁵³ Rahman, *Muslim Personal Law*, 521-522; Al-Sabuni, *Al-Mawarith*, 72; Cheema, *Islamic Law of Inheritance*, 65-67.

sister/s “because of superior strength of his blood-tie.”⁵⁴ However, a consanguine brother is not excluded by a full sister.⁵⁵ In presence of full brother, full sister/s is converted into ‘residuary in another’s right’, and in his absence, she is treated as sharer irrespective of presence of consanguine brother. When she is sharer, she would have her prescribed share and the residue would be given to the most preferred residuary who may be consanguine brother or any other residuary occupying lower ladders in D. F. Mulla’s chart of residuaries.⁵⁶

We have concluded that full sister, and on her analogy consanguine sister, could never be treated as ‘residuary in her own right’, but they may convert into ‘residuary in another’s right’ in presence of male counterparts possessing similar relationship with deceased. D. F. Mulla’s mentioning of full sister at serial no. 5 and consanguine sister at serial no. 7 along with their male counterparts personify the sisters as ‘residuary in another’s right’, whereas their male counterparts are ‘residuaries in their own right’.⁵⁷ When a full sister is converted into ‘residuary in another’s right’, she along with her male counterpart excludes those residuaries who are occupying lower ladders in the chart of residuaries. However, in absence of a male counterpart possessing similar relationship with deceased, full sister is sharer, and in this capacity, she does not deprive any residuary occupying lower ladders in the chart of residuaries.

There is one more eventuality in which full sister could deprive her consanguine brother or any other residuary located at lower level in the chart of residuaries. It is third category of residuary termed as ‘residuary together with another’.⁵⁸ This category was intended by D. F. Mulla by mentioning a full sister at serial no. 6 in the chart of residuaries.⁵⁹ Similarly, for avoidance of any confusion, consanguine sister at serial no.8 in the chart of residuaries belongs to this category of residuary. However, due to misreading or negligence of the conditions mentioned in D. F. Mulla’s chart, the Supreme Court could not properly decide the controversy in *Saadullah v Gulbanda*.⁶⁰ And then the Islamabad High Court,⁶¹ treating the apex court’s decision as precedent, endorsed the erroneous exposition of law.

Similar to the second category of residuary, ‘residuary together with another’ is exclusively comprised of females who are originally sharer. However, in contradistinction with the second category, here they are converted into residuaries by female sharer/s and not by male residuary/ies. Daughter or son’s daughter converts full sister or consanguine sister into ‘residuary together with another’.⁶² In this situation, daughter or son’s daughter remains sharer, but converts full or consanguine sister into residuary. After conversion into ‘residuary together with another’, full or consanguine sister starts behaving like her male counterpart, i.e., full or consanguine brother, and deprives those residuaries who are situated at lower ladders in the chart of residuaries. So,

⁵⁴ Coulson, Succession, 67.

⁵⁵ Ibid.

⁵⁶ Mannan, *Mulla’s Principles*, 101-102.

⁵⁷ Ibid., 101.

⁵⁸ Rahman, Muslim Personal Law, 523.

⁵⁹ Mannan, *Mulla’s Principles*, 101.

⁶⁰ 2014 SCMR 1205

⁶¹ Muhammad Tariq v Sabira Bibi (Case No. : C.R. NO.442-D-2003)

⁶² Coulson, Succession, 71-73; Al-Sabuni, *Al-Mawarith*, 73-77; Cheema, Islamic Law of Inheritance, 67-68.

once a full sister is converted by daughter or son's daughter in absence of male residuaries of higher or similar ranks, she deprives consanguine brother or any other residuary of comparatively lower rank. If a full sister does not metamorphose into 'residuary together with another' by not fulfilling the conditions for such conversion, she would remain as sharer. As a sharer, she is not potent enough to deprive a consanguine brother or any other 'residuary in his own right' situated lower than her in the chart of residuary.

D. F. Mulla's chart of residuaries has mixed all kinds of residuaries in one flow for the sake of brevity. This causes a misleading impression as if all residuaries belong to the same category and the assignment of a judicial officer or revenue official is to note the sequence/order mentioned in the chart and allocate shares accordingly. To be fair with D. F. Mulla, he has explained distinctions among various kinds of residuaries in explanatory notes.⁶³ Since this is done in the commentary and not in his so-called 'sections', it often escapes attention. It would have been more appropriate for ease of comprehension, had all categories of residuaries explained independently to avoid confusion like Al-Sabuni does.⁶⁴ We do not find any consolidated chart of residuaries there. The same is the pattern of elucidation adopted by celebrated scholar of Islamic law N. J. Coulson.⁶⁵ Tyabji has prepared a chart of residuaries, but he has maintained a distinction between 'residuary in his own right' and other kinds of residuaries by putting them in different rows.⁶⁶

D. F. Mulla's primary source in the domain of *Hanafi* law of inheritance is *Al-Sirajayyah* whose author has dealt with all kinds of residuaries one by one.⁶⁷ Further, in *Al-Sirajayyah*'s appendix prepared by its editor, we come across residuaries placed in two groups: first permanent (mentioned as *always*) and second occasional (mentioned as *sometimes*) for emphasizing distinctions among various types of residuaries.⁶⁸ A relatively stable status is enjoyed by the residuaries of permanent nature as compared to occasional residuaries whose conversion into various types of legal heirs (e.g. from sharers into residuaries) is dependent on fulfillment of numerous conditions meticulously enumerated by Muslim scholars and jurists. 'Residuary in another's right' and 'residuary together with another', of which a full sister is an integral part, are in the second group, whereas all 'residuaries in their own right', such as son, full brother, consanguine brother, full/consanguine brother's son and paternal uncle except father and paternal grandfather due to possibility of dual status as sharer and residuary, are placed in the first group.

Analysis of Good Case Law:

The Lahore High Court in *Shah Jahan Begum v Zafar Ahmed* has appreciated the role of full sister in its proper perspective.⁶⁹ In a comparable situation confronted by the Supreme Court and the Islamabad High Court in the cases analyzed in the first section of the article, it treated full sister as sharer and granted the residue to sons of predeceased

⁶³ Mannan, *Mulla's Principles*, 102; 109; 111-113.

⁶⁴ Al-Sabuni, *Al-Mawarith*, 68-78; Cheema, *Islamic Law of Inheritance*, 61-69.

⁶⁵ Coulson, *Succession*, 65-78; Syed Ameer Ali, *The Personal Law of the Mahommedans* (London: W. H. Allen & Co. 1880) 48-51.

⁶⁶ Faiz Badruddin Tyabji, *Muhammadian Law: The Personal Law of Muslims* (Bombay: N. M. Tripathy & Co. 3rd Edition, 1940) 863.

⁶⁷ *Al-Sirajayyah*, 23-25.

⁶⁸ *Al-Sirajayyah*, 69-70.

⁶⁹ PLD 2018 Lahore 426

full brother. In this case, a deceased left behind widow, full sister, and sons of predeceased full brother. They were allocated the share in the following manner by revenue authorities:

Widow: 1/4 (as sharer)

Full sister: 1/2 (as sharer) and

Sons of predeceased full brother: 1/4 (as residuaries).

The full sister argued that she was entitled to 3/4th share in the estate by excluding the sons of predeceased full brother. Her civil litigation did not bear any favorable outcome and the matter was eventually brought before the Lahore High Court. While substantially relying on *Saadullah v Gulbanda*,⁷⁰ it was contended that the full sister was placed in D. F. Mulla's chart of residuaries at serial no.6 and the sons of predeceased full brother were on serial no.9. Hence, the latter should, in light of the doctrine of return (*Radd*) and principle of exclusion, be declared disentitled to 1/4th share and that share be allocated to the farmer.

The high court pointed out with reference to *Saadullah v Gulbanda*⁷¹ that consanguine brother figuring at serial no.7 was excluded by full sister, while in the present case, the controversy related to the sons of predeceased full brother who were placed on serial no.9 in the chart of residuaries. However, the court regretted that the Supreme Court was not provided with the complete reference of D. F. Mulla in respect of full sister's right to inheritance and its conditions as mentioned in serial no.6 of the chart of residuaries. This lapse misled the apex court to pronounce an inaccurate decision. In this manner, the Lahore High Court courteously avoided to follow the precedent of the Supreme Court. Afterwards, it carried out an analysis of full sister's inheritance by categorizing her entitlement in three different scenarios as sharer, 'residuary in another's right' and 'residuary together with another', without employment of the last two terminologies. The court rightly observed that a full sister could only deprive a consanguine brother when she was either converted into 'residuary in another's right' along with her male counterpart or acquired the role of 'residuary together with another' with daughter/son's daughter. Since in the present case the full sister could not be treated as residuary of any kind, the court upheld the awarding of 1/4 to the sons of predeceased full brother as residuaries.

This decision of the Lahore High Court was pronounced before *Muhammad Tariq v Sabria Bibi*⁷² decided by the Islamabad High Court. Without noticing that the restatement of law on the same controversial subject was attempted by another high court, the Islamabad High Court adopted the view pronounced by the Supreme Court due to its precedential value.

During case law research on the subject, I found some more pertinent decisions of various courts some of which predate *Saadullah v Gulbanda*.⁷³ Without analyzing complicated issues involved in those cases, I would summarize the relationship of the parties and how an estate was distributed among them to make a point that the courts were well appreciative of the law on the subject before the last mentioned case. However, haphazard appreciation of the law in this case confounded the scenario on the issue of

⁷⁰ 2014 SCMR 1205

⁷¹ Ibid.

⁷² Case No. : C.R. NO.442-D-2003.

⁷³ 2014 SCMR 1205

inheritance rights of full sister with other residuaries, and further, coerced the subordinate courts to comply with precedent.

In *Sahib Jan v Ayesha Bibi*,⁷⁴ the predecessor in interest of the parties had two wives and children from both of them: Muhammad Nawaz and Sabhai (daughter) from one wife and Muhammad Afzal, Ayesha and Fatima from another wife. On death of the predecessor in interest, the estate was distributed between two sons excluding three daughters under customary law. Afterwards, Muhammad Afzal died and his estate was transferred to his consanguine brother Muhammad Nawaz under customary law excluding his two full sisters, i.e., Ayesha and Fatima. Ayesha disputed this transaction and claimed that she was entitled to the extent of 1/3rd share out of her deceased full brother's estate under Islamic law. One of the important issues in the case was the controversy about the application of customary or Islamic law, and once the Supreme Court concluded that the inheritance rights of the litigating parties were to be decided under Islamic law, it declared Ayesha's entitlement to 1/3rd share (as sharer) from her full brother's estate, and the consanguine brother Muhammad Nawaz (as residuary) was directed to release the estate to that extent to Ayesha. The other full sister Fatima did not appear (from perusal of the decision) to have initiated any legal proceeding against her consanguine brother Muhammad Nawaz, hence, the court did not address the issue of her inheritance, though she was considered alive while calculating Ayesha's 1/3rd share. Had the other full sister applied for her share, they both would have 2/3rd share jointly from the estate of their full brother, and the remainder would have been given to the consanguine brother Muhammad Nawaz as residuary.

It is appropriate to point out that *Sahib Jan v Ayesha Bibi*⁷⁵ was pronounced by a bench comprised of three judges (Nasir-ul-Mulk, Main Saqib Nisar and Iqbal Hameedur Rahman), whereas *Saadullah v Gulbanda*⁷⁶ was decided by two members bench (Anwar Zaheer Jamali and Ijaz Ahmed Chaudhry). As per 'judicial customary principles' a decision of a larger bench is supposed to have precedence over a smaller bench's decision.⁷⁷ Probably, complexity of various issues, such as applicability of customary law or Islamic law, question of limitation and holding an estate as co-sharer on behalf of other legal heirs, in the former case prevented the judiciary and legal fraternity to take note of the law laid down in it on the issue of inheritance.

Another case decided correctly by the Supreme Court on an analogous issue is *Waris Ali v Rasoolan Bibi*.⁷⁸ It is worth noting that Justice Anwar Zaheer Jamali was part of this bench as well as the bench that decided *Saadullah v Gulbanda*⁷⁹ almost two and half months earlier. The judgment in the latter case was authored by Justice Anwar Zaheer Jamali. Justice Main Saqib Nisar was the author of the judgments in both *Sahib Jan v Ayesha Bibi*⁸⁰ and *Waris Ali v Rasoolan Bibi*.⁸¹ The controversy in the last case was between two full sisters and son of predeceased full brother. The high court granted the

⁷⁴ 2013 SCMR 1540

⁷⁵ Ibid.

⁷⁶ 2014 SCMR 1205

⁷⁷ Munir, Precedent in Islamic Law, 460.

⁷⁸ PLD 2014 SC 779.

⁷⁹ 2014 SCMR 1205

⁸⁰ 2013 SCMR 1540

⁸¹ PLD 2014 SC 779.

entire estate to the former excluding the latter.⁸² The apex court referring to N. J. Coulson's *Succession in the Muslim Family* and *Mufeed-ul-Warisayan* by Mufti Mahmood Ashraf Usmani⁸³ concluded that the full sisters as sharers were entitled to 2/3rd of the estate, while the residue would be given to their nephew (i.e., son of the predeceased full brother) as residuary. The court, without making a reference to D. F. Mulla's chart of residuaries where the nephew was at serial no. 9 in comparison to the full sisters' placement at serial no. 6, rightly observed that the nephew could neither be excluded by the full sisters nor could he agnatize them.⁸⁴ In this case, the other full sister (Ghulam Fatima) never joined her sister (Rasoolan Bibi) in litigation against their nephew. Considering this, the court contended with a declaration that Rasoolan Bibi was entitled to 1/3 share as sharer.⁸⁵

In *Rahim Bakhsh v Hakim Bibi*,⁸⁶ the last male owner Abdul Ghani died in 1929 and left behind, Hakim Bibi -a childless widow, Bakhtawar -a full sister, and Ilam-ud-Din -a consanguine brother. The deceased's estate initially was granted to the widow as limited owner. After the introduction of the West Pakistan Muslim Personal Law (Shariat) Application Act 1962, two different civil proceedings were initiated: one by the full sister and another by legal heirs of the consanguine brother, which were proceeded jointly by the courts. Eventually, the high court granted the share to these legal heirs in the following manner:

Widow: 1/4 (as sharer)

Full sister: 1/2 (as sharer), and

Consanguine brother: 1/4 (as residuary).

It is pertinent to highlight that on dismissal of their case by the trial court, the legal heirs of the consanguine brother did not file an appeal before the first appellate court. Despite their opting out of the litigation, the learned judge of the first appellate court treated the right of the consanguine brother as of 'question of law' and declared him entitled to his share under Islamic law.

In *Muhammad Suleman v Public At Large*,⁸⁷ the Lahore High Court constituted a division bench (i.e., two members' bench) to resolve a controversy generated by two divergent decisions of two single member benches of the same high court.⁸⁸ In the present case, the deceased -an unmarried lady- left behind two full sisters and sons of the paternal uncle's sons. The court, after giving proper consideration to the qualifications mentioned by D. F. Mulla in the chart of residuaries for conversion of full sister/s placed at serial no. 6 into residuary, distributed the estate as under:

Full sisters: 2/3 (as sharers),

Sons of the paternal uncle's sons: 1/3 (as residuaries).

⁸² Rasoolan Bibi v Waris Ali 2007 MLD 33

⁸³ PLD 2014 SC 779, 782

⁸⁴ Ibid., 781

⁸⁵ Ibid., 783

⁸⁶ 1995 CLC 123 [Lahore]

⁸⁷ 2013 CLC 395 (Lahore)

⁸⁸ Barkat Bibi v Gaman Bibi 2005 MLD 280 (one sister was granted 1/2 as sharer and two sons of predeceased full brother 1/2 as residuaries) & Rasoolan Bibi v Waris Ali 2007 MLD 33 (two full sisters were given 2/3 as sharers as well as the residue by excluding son of predeceased full brother).

The analysis of case law in this section has underlined two points: first, the courts had been relatively well aware of various roles of full sister as legal heir and they applied the correct law to the controversies involving her and other residuaries situated at relatively lower ladders in the chart of residuaries. Second, it was *Saadullah v Gulbanda*⁸⁹ that destabilized the accurate application of law on the subject and overshadowed those decisions⁹⁰ of the Supreme Court which merited to be treated as good precedent.

Brief Comments on Doctrine of *Radd*:

Some of the sentences articulated by the Supreme Court in *Saadullah v Gulbanda*⁹¹ and the Islamabad High Court in *Muhammad Tariq v. Sabira Bibi*⁹² stir ambivalence about the doctrine of *radd*. For instance, the apex court referred it in the following manner:

“As applying the doctrine of return (*Radd*) and rule of “exclusion”, the three sisters of the deceased would not only inherit 2/3rd share, as sharers, from the estate of their deceased real brother, having died issueless but being nearer in the category of residuary at serial No. 6, the remaining 1/6th share will also devolve upon them in such capacity.”⁹³

In the above cases, the controversy was about the inheritance rights of full sister and consanguine brother: the former was sharer and the latter residuary. It is precondition for applicability of the doctrine of *radd* that there is no legal heir from any category of residuary. Under the doctrine, in absence of residuary and after awarding the prescribed shares to sharers, if a part of an estate is left behind, that part is once again reverted to sharers in accordance with their prescribed entitlements barring spouses.⁹⁴ In presence of any residuary, irrespective of his remoteness of relationship, his presence is sufficiently potent enough to prevent the application of doctrine of *radd*. Hence, this doctrine is exclusively confined to sharers and its reference in context of any residuary is likely to cause misgivings.⁹⁵

Conclusion:

Distribution of inheritance under Islamic law is a delicate as well as thorny issue. A lapse may cause deprivation of valuable rights for qualified legal heirs and particularly when such lapse is committed at the level of the Supreme Court, it would multiply consequences because the decisions of the apex court are binding and authoritative precedent in Pakistani legal system. *Saadullah v Gulbanda*⁹⁶ set a bad precedent for distribution of inheritance between full sister/s and consanguine brother/s that was followed by other courts not only for the same type of controversy, but was extended to comparable situations analogically. To some extent, this lapse was

⁸⁹ 2014 SCMR 1205

⁹⁰ *Sahib Jan v Ayesha Bibi* 2013 SCMR 1540 & *Waris Ali v Rasoolan Bibi* PLD 2014 SC 779.

⁹¹ 2014 SCMR 1205

⁹² Case No. : C.R. NO.442-D-2003.

⁹³ *Ibid.*, 1209-1210.

⁹⁴ Al-Haj Mahomed Ullah Ibn S Jung, *The Muslim Law of Inheritance* (Allahabad: S. Sultan Law Publishers, 1934) 36; Neil B. E. Baillie, *The Moohummudan Law of Inheritance* (Calcutta: Baptist Mission Press, 1832) 111.

⁹⁵ See Tyabji, *Muhammadan Law*, 875-876; Mannan, *Mulla's Principles*, 115; Al-Sabuni, *Al-Mawarith*, 123-125; Cheema, *Islamic Law of Inheritance*, 112-113.

⁹⁶ 2014 SCMR 1205

contributed by apparent simplicity of the chart of residuaries by D. F. Mulla's *Principles of Muhammadan Law*. Mulla's endeavor to club all types of residuaries in one chart somewhat obscured the niceties among them. D. F. Mulla spelled out the qualifications for each type of residuary briefly in the chart of residuaries and in detail in his explanatory notes, but regrettably the Supreme Court did not pay attention to them and allocated an overvalued significance to the sequence/order of residuaries in the chart.

Prior to *Saadullah v Gulbanda*,⁹⁷ the courts exhibited relatively accurate comprehension on identical controversies. Unfortunately, such precedents have been thrown out of sight, and perplexingly, one of them, i.e., *Sahib Jan v Ayesha Bibi*,⁹⁸ was pronounced by larger bench of the Supreme Court than the one put in writing *Saadullah v Gulbanda*.⁹⁹ In *Waris Ali v Rasoolan Bibi*¹⁰⁰ pronounced after *Saadullah v Gulbanda*,¹⁰¹ the Supreme Court articulated an accurate perspective of law on a comparable situation, but the former could not conclusively dispel the confusion engendered by the latter. *Saadullah v Gulbanda*¹⁰² is a trouble-free escape stratagem for both bench and bar as illustrated by *Muhammad Ahmad Khan v Nashid Anum Shahid*,¹⁰³ and that is why its prominence and aura is not wiping out by such pronouncements. In this murky situation, it is difficult for subordinate judiciary and revenue officials dealing with disputes of inheritance to confront the precedent of the Supreme Court. Hence, the Supreme Court is urged to take responsibility by acknowledging the defectiveness of *Saadullah v Gulbanda*¹⁰⁴ and declaring it explicitly as bad precedent for protection of rights of eligible legal heirs.

⁹⁷ Ibid.

⁹⁸ 2013 SCMR 1540

⁹⁹ 2014 SCMR 1205

¹⁰⁰ PLD 2014 SC 779

¹⁰¹ 2014 SCMR 1205

¹⁰² Ibid.

¹⁰³ PLD 2018 Islamabad, 379.

¹⁰⁴ 2014 SCMR 1205