| 44 |
| --- |
| Regular |

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH**
**AT SRINAGAR**

CM(M) 227/2021 CM(8695/2021)

**Aisha Bano.**

….. Petitioner (s)

Through: Mr. Mudasir Bin Hassan, Adv.

V/s

**Bashir Ahmad Malik and Ors.**

….. Respondent(s)

Through: None.

**Coram:**

**Hon'ble Mr. Justice Sanjay Dhar, Judge**

**ORDER**

28.07.2025

1. The petitioner claims to be the sister of Mst. Yasmeena in respect of whom by virtue of impugned award dated 14-12-2019, respondent No. 1-Bashir Ahmad Malik has been appointed as the guardian. It has been contended by the petitioner that despite she being sister of Mst. Yasmeena, the respondents have deliberately omitted to implead her a party to the proceedings initiated by respondent No. 1 under Mental Health Act 1987 for appointment of guardian of Mst. Yasmeena, who was suffering from mental disorder
2. It has been submitted that during the pendency of the petition, under Mental Health Act 1987 the parties to the said petition entered into a compromise in terms whereof respondent No. 1 was appointed as the

guardian of Mst. Yasmeena and besides this it was provided that 4 kanals of land from Khewat Nos. 15, 18 and 110 shall be given to the Mst. Yasmeena who would be looked after by respondent No. 1. It was further agreed that property of Mst. Yasmeena after her death shall devolve upon the legal heirs of respondent No. 1 and that no other person from the family shall claim any share in the said property either directly or indirectly. In light of the said compromise the impugned award came to be passed by the Lok Adalat.

3. Notice of this petition was issued to the respondents but despite service they did not put in their appearance. Accordingly they were set ex-parte.

4. Learned counsel for the petitioner has been submitted that Mst. Yasmeena has died and as such, the issue of appointment of her guardian is no more required to be determined of this Court. He has further submitted that the question whether in terms of the impugned award dated 14-12-2019, property of Mst. Yasmeena could have been made to devolve upon legal heirs of respondent No. 1 thereby ousting the other family members including the petitioner, who is not even a party to the compromise, is required to be determined.

5. The petitioner was not impleaded as a party to the petition under Mental Health Act which came to be decided by virtue of the impugned award. She is not even a party to the compromise which

lead to the passing of the award by the Lok Adalat, as such, the said award to the extent of the rights of the petitioner is not binding

6. Accordingly, the petition is disposed of by providing that the impugned award dated 14-12-2019, passed by the Lok Adalat organized by District Legal Services Authority, Shopain shall not have any prejudicial effect upon the rights and entitlements of the petitioner over the property left behind by her sister namely Mst. Yaseema. It shall be open to the petitioner to seek adjudication of her rights in respect of the said property by way of appropriate proceedings and the impugned award shall not come in her way while seeking adjudication of such rights
7. The petition stands **disposed of.**

**(Sanjay Dhar)**
**Judge**

**SRINAGAR**
28.07.2025
*Sarvar*