



*A Muslim heir should know his rights of inheritance*

# Inherited Property: A Complex Calculation of Sajeda's Dream

**Akhnukh Jabiullah**

The terrain is one of the four elements of state formation. Terrain means a piece of land. Land disputes have existed since before the formulation of the state. Land disputes are therefore a daily phenomenon for any state or any era. Not all land disputes are intentional, but immature knowledge of land law, especially ignorance of inheritance law, is a major cause of land disputes. Ordinary people, who do not understand the complex calculations of the law, therefore suddenly get involved in various disputes among themselves due to not properly calculating the inherited property. A wicked class of the latest society has created various legal complications among the common people and deceived them in various ways. Our story today is about Sajeda, an ordinary citizen of Bangladesh, who grew up in Dhaka as a landless person, like so many other residences of Dhaka. But her luck is a bit different than others as suddenly her father becomes the owner of a piece of land. Though they become the owner of the land in reality it's not so easy to change the luck overnight. Sajeda and her father are still struggling for getting possession of their inherited property, which is now in court to solve.

Sajeda lives with her father & daughter in a very crowded area of Dhaka city. Once spending a very happy day with brother, sister & parents, goes away with the sudden death of her mother. Gradually the brothers and sisters got married and they were getting busy arranging their families. At one point, Sajeda, the youngest daughter of the family, got married too. But fortune wasn't auspicious for Sajeda who had to return with her year's old daughter to her father's rented small house. Sajeda dreamt of living in her own house with her daughter and father. Sajeda, who is skilled in making girls' clothes, took the responsibility of running the family into her own hands. With economic prosperity, Sajeda continued to dream to have a shelter, a home of her own in Dhaka city. But building a home is not so easy task as it requires having a piece of land and nowadays what can be more precious than a piece of land in Dhaka? With this impossible dream in her mind, Sajeda made various colorful dresses with her sewing machine. One day her dream comes true. No, Sajeda didn't win any lottery suddenly to have a huge amount of money. Sajeda's father inherited now a piece of land in Dhaka city.

Sajeda's father had two brothers. The oldest brother died long ago and left two sons as his successor. Before the second oldest brother died, he requested Sajeda's father to live with him on the property he owned. Sajeda's father took his daughter and granddaughter to his brother's purchased house. Sajeda's sick uncle loved her like his own daughter and Sajeda also took care of her childless uncle like her own father. Although the

piece of land purchased by Sajeda's uncle was a little more than one Katha, he inherited the same portion of land from his wife who died a few years ago, so his current land was about 2.5 Kathas. Kamrunnahar, a tenant of his uncle, lives in a part of this land. But before sajeda's family fully becomes settled in their new address, their happiness is wiped up by the sudden death of her uncle.

After a few days of Sajeda's uncle's died they become aware of the neighbor that, as he had no son or daughter, his brother's and sister's became the owner of the entire property. According to the Muslim law of Bangladesh, Sajeda's father and his two sisters became the owner of the entire property. Sajeda thought that her dream of having her own home will come true this time.

But Sajeda's father and his two sisters and two sons of the oldest brother didn't know how much property they inherited as they were unaware of the distribution of inherent property according to the law of the State. So, they tried to come up with a solution through discussions with the locals. So they went to the local leaders to solve their dispute and choose them as arbitrators so that they can get their part of inherited property.

On the day of the arbitration, Kamrunnahar who had been a tenant in the inherited land for so long, came up with a copy of deeds of a Saff Kabla, a legal document, referring that, she had already purchased the portion of the property of Sajeda's aunt from Shajeda's aunt before her death. Sajeda's heart was broken as soon

as she saw this deed. In the negotiations, the local leaders who were acting as arbitrators decided that Kamrunnahar would own Sajeda's aunt's property that means half of the entire property and the rest of the portion of the property which was purchased by Sajeda's uncle would be divided into three parts, one part for her father, one part for the two sons of the oldest uncle who died long ago and the third part for Sajeda's two aunts.

Sajeda's dream of having her own house after suddenly inheriting her uncle's property, as it seemed possible after this distribution became completely impossible. Meanwhile, Kamrunnahar sold her share to local leaders, who was also acted as arbitrator and went elsewhere. The buyer of kamrunahar's portion blocked the narrow alley which Sajeda and her family use as the excess of their portion of land. Sajeda was forced by the new buyer to sell their shares at a lower price to him.

Desperate to find no other way, Sajeda came to a lawyer with her father and explained everything. After discussing with her lawyer, Sajeda was surprised to learn that the children of her older uncle who died long ago would not get any share in this property since their father had died before the death of the owner of the property.

The Muslim Inheritance Act of Bangladesh is governed by the Hanafi Inheritance rules which are created according to Al-Quran and Sunnah. According to this law, heirs can be divided into three categories Such as Ashab Al-Furudh – (Quranic Heirs),

Asabat – (Residuary Heirs) & Zawl Arham – (Distant Kindred). Ashab Al-Furudh – (Quranic Heirs) is also divided into three parts as Primary heirs, Secondary heirs, and Substitute heirs. Under the Muslim Inheritance law, Primary heirs consist of 6 categories of persons who will never be deprived of inheritance.

They are the parents, husband, wife, son, and daughter of the deceased. Secondary heirs include siblings, stepbrothers, and stepsisters. Substitute heirs include grandparents and grandchildren of a deceased person. These 12 people belong to the Ashab Al-Furudh – (Quranic Heirs) class. The remaining beneficiaries will receive the property after paying the share to Quranic Heirs. Distant relatives will not receive the property if there are Ashab Al-Furudh – (Quranic Heirs/ primary heirs) and/or Asabat – (Residuary Heirs).

Sajeda's uncle died childlessly and before his death, his parents, wife, one brother, and grandparents died too. As a result, there were no primary heirs alive to receive inherent property from Sajeda's deceased uncle.

Under Muslim inheritance law, as no primary heirs were alive so the property will be gone for the secondary heirs, and as we see in the secondary heirs' list there are three people alive to inherent the property. Sajeda's father inherited half of his brother's property and the other two surviving sisters owned the remaining half according to with law, Since Sajeda's father and 2 aunts are alive as the remnant heirs, two sons of the deceased uncle will

not receive any property. Sajeda's father and Sajeda realized that the decision given by the local arbitrator was wrong, but now they have no choice but to resort to the law. But even after that, Sajeda and her father were happy to know the legal issues and expressed their interest in taking legal action quickly. But more good news awaits them. When Sajeda came with all the papers and documents to take legal actions against her two cousins, Sajeda's lawyer told her that, a certified copy of the document by which Sajeda's aunt sold her land to Kamrunnahar should be brought from the concerned office. Because with the document of Kamrunnahar, a local leader is claiming the share of the land bought from her. Though the number and date of execution of the executed Saff Kabla documents are mentioned they do not have a certified copy. Sajeda's poor father brought a certified copy of the deed with the number and date of the documents from the land registry office. The lawyer was surprised to see the documents, although the number and date of the deed are correct, the names of the seller and the recipient of the deed are completely different, with which there is no similarity between Sajeda's aunt or Kamrunnahar and the property mentioned. This shows that Sajeda's aunt didn't sell any property to Kamrunnahar.

Kamrunnahar seizes property by deceiving everyone in arbitration by making fake documents to cheat Sajeda's aunt. Since this Saff Kabla is fake, it is also illegal to sell the property to a local leader by Kamrunnahar as she had no legal ownership of the land. In other words, the property of Sajeda's deceased aunt will be inherited according to Islamic inheritance law. Reviewing the situation, it can be seen that Sajeda's aunt died childlessly, and there are no primary heirs except her husband, so according to Hanafi inheritance law her husband, Sajeda's uncle, becomes the owner of all the property which Sajeda's aunt left during her death. And since Sajeda's uncle is no longer alive, the property will be shared between Sajeda's father and her two aunts and according to Islam, Sajeda's father will get half, and Sajeda's two aunts will get the other half. Although such a complex account of the law Sajeda is unknown to, after discussing with the lawyer and reviewing all the documents by the lawyer, Sajeda can understand it later that according to the customary law, Sajeda's father actually got much less property than he supposed to get and if he wants to recover the remaining part, he can sue in court and then recover it. Sajeda dreams of her own house again, although the lawyer has given the idea that her father will get the

land is a little more than one Katha but Sajeda is quite satisfied with this. But suing and maintain that sue is not an easy task, it is a matter of cost and time too. Since the amount of property is less but the price is much higher, to file a case, Sajeda has to pay the ad valorem court fee i.e., 2% of the current value of the land which is very tough for Sajeda to collect. Even then, Sajeda struggled hard to raise the money to fulfill her dreams and to establish her due rights. Finally she managed money and file her case before the honorable court. But she still has to go more way to establish her rights and this journey is not a bed of roses.

There are many such Sajeda scattered all over Bangladesh who are being deceived in various ways due to not knowing the law properly. Perhaps the biggest obstacle to get justice is ignorance of knowing own rights or in another way ignorance to know the law. Only when the common people like Sajeda are aware of their rights, just then it is possible to truly implement the rule of law.

### Akhnuh Jabiullah



Acting Principal  
Demra Law College  
Dhaka, Bangladesh  
Email: ajhdbs@gmail.com



**Become a Successful Professional  
with the help of BiLD Law Academy**

+88-02-9585245-46  
+88 01883 886888  
info@bildbd.org

📍 KR Plaza (Level 6 & 7), 31 Purana Paltan, Dhaka-1000

🌐 [www.bildbd.org](http://www.bildbd.org)