

**ORDER SHEET.**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**W.P No. 2384-2021**

Khurram Mehboob

Versus

Judge Family Court, Islamabad and others.

<b>S. No. of order/ proceedings</b>	<b>Date of order/ Proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
<b>(02)</b>	28.07.2021	Mr. Mehboob-e-Hasnain, Advocate for the petitioner. Respondents No. 2 & 3 in person.

**MOHSIN AKHTAR KAYANI J.** Through the instant petition, the petitioner has assailed the order dated 22.06.2021, passed by learned Judge Family Court (West), Islamabad, whereby written reply to the Guardian petition filed by the respondent No.2 was received by Judge Guardian Court, despite the fact that number of opportunities were granted to her, even with cost.

2. Learned counsel for the petitioner contends that petitioner has filed custody petition for the custody of minor Muhammad Rohaan/respondent No.3 against Mst. Shazia Akbar Ghilzai/respondent No.2, the mother on 30.07.2019, but the matter was delayed for one reason or the other and despite availing 38 adjournments, respondent No.2 has filed written reply to the said petition on 22.06.2021, although the cost of Rs. 2,000/- was also imposed upon her, in such scenario, the right to file written reply has to be forfeited and written reply filed by respondent No.2/Mst. Shazia Akbar Ghilzai on record of the Guardian Court may be stand excluded

from consideration and ex-parte proceedings be ordered.

3. Conversely, respondent No.2, Mst. Shazia Akbar Ghilzai alongwith minor Muhammad Rohan/respondent No.3 in person contends that she is facing hardship in this case and even the matter has adjourned for one reason or the other due to Covid-19 from the last one and half year and even due to strikes of the Bar Association due to incident of Islamabad High Court attack by the Lawyers of Bar Association, as such delay is not attributed to her.

4. Arguments heard and record perused.

5. Perusal of record reveals that custody petition in terms of Section 25 of The Guardian and Wards Act has been filed by the petitioner for the minor son respondent No.3/Muhammad Rohan against the mother Mst. Shazia Akbar Ghilzai, whereby Judge Family Court has given direction for filing of written reply after appearance of respondent No.2 in the Court, but matter was adjourned on numerous dates as reflected from the record, even cost of Rs.2,000/- was imposed upon respondent No.2 vide order dated 16.01.2021, but the reply was finally filed on 22.06.2021, which was accepted by Judge Guardian Court, which is the cause of main grievance of the petitioner, as such the orders of the cost are already in field and the petitioner can get the said order implemented from the said Guardian Court, who is bound by its own orders.

6. The petitioner has been confronted as to whether the order impugned before this Court is of permanent character or to be called as interim order, whereby it has been candidly conceded that the impugned order is interlocutory in nature as the main case is subjudice before the Court of law.

7. In view of above reasons, this Court is not inclined to proceed further in the matter as this Court has earlier passed order dated 05.07.2021 with direction to learned M.I.T to call a report from the concerned Judge to explain the reasons as to why 38 opportunities were granted to respondent No.2 for submission of written reply and case has been adjourned for one reason or the other. However, the report of the said Judicial Officer has been received and placed on record, which is taken care on administrative side through learned M.I.T and the impugned order is considered to be interlocutory in nature, whereby writ petition in such matters is not maintainable as no final adjudication has been made so far.

8. For what has been discussed above, instant writ petition stands **DISMISSED**. However, propriety demands that Judge Guardian Court shall decide the case in accordance with law within period of sixty (60) days by all means and the report shall be submitted through learned M.I.T for perusal in chambers on its administrative side.

**(MOHSIN AKHTAR KAYANI)**  
**JUDGE**