

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.2697/2019

Mst. Shakeela Akhtar

Versus

Additional District & Sessions Judge and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	23.07.2019	Mr. Muhammad Mustafa Khattak, Advocate for the petitioner.

Through the instant writ petition, the petitioner, Mst. Shakeela Akhtar, impugns (i) the order and decree dated 27.05.2019, passed by the learned Family Court on the basis of the compromise arrived at between the petitioner and respondent No.3 (Arif Ullah) regarding the custody, visitation and maintenance for their children, and (ii) judgment dated 18.07.2019, whereby the petitioner's appeal against the said order and decree dated 27.05.2019, was dismissed by the Court of the learned Additional District Judge, Islamabad.

2. Learned counsel for the petitioner submitted that the concurrent judgments/orders passed by the learned Courts below suffer from jurisdictional irregularities warranting interference in the Constitutional jurisdiction of this Court; that the petitioner's counsel was not present before the learned Family Court when the impugned order and decree dated 27.05.2019, was passed; that the petitioner had replaced her earlier counsel, with her present counsel but despite the said replacement, the learned Family Court did not mark the attendance of the petitioner's present counsel; that the petitioner is an illiterate woman and did not understand the terms of the compromise recorded by the learned Family Court in its order dated 27.05.2019; that the petitioner has no knowledge of "*legal shenanigans*" and learned

Family Court *“coercively and harshly”* asked the petitioner to sign the order sheet so as to benefit respondent No.3; and that the petitioner’s present counsel did not appear before the learned Family Court on 27.05.2019 since he was busy before this Court. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein.

3. I have heard the contentions of the learned counsel for the petitioner and have perused the record with his able assistance.

4. The record shows that the petitioner and respondent No.3 were married on 11.11.2007. The couple were blessed with three children out of whom one had passed away at the age of seven. The strained relations between the petitioner and respondent No.3 have caused them to separate. Their two minor children are presently in the petitioner’s custody.

5. On 29.01.2018, respondent No.3 filed a petition under Section 25 of the Guardian and Wards Act, 1890, seeking the custody of his two minor children. During the pendency of the said petition, a compromise was arrived at between the petitioner and respondent No.3. This compromise was recorded by the learned Family Court in its order dated 27.05.2019, whereafter a decree in terms of the compromise was passed. By virtue of the said compromise, the custody of the minors remains with the petitioner, and a visitation schedule has been agreed upon. This visitation schedule is reflected in the order and decree dated 27.05.2019.

6. I have gone through the said visitation schedule and find the same to be just and reasonable. Visitation schedule based on reconciliation/compromise between parties was endorsed by the Hon'ble Supreme Court in the case of Madiha Younas Vs. Imran Ahmed (2018 SCMR 1991).

7. It is well settled that a father cannot be deprived of his visitation rights regarding his minor children. Reference may be made to the judgments in the case of Mst. Hira Vs. 7th Additional Sessions Judge, Hyderabad (2019 MLD 804), Mst. Maryam Masood Vs. Mughisuddin Mirza (2009 CLC 1443), Saad Amanullah Khan Vs. IVTH-Senior Civil Judge, (South) Karachi (PLD 2008 Karachi 499) and Umar Farooq Vs. Khushbakhat Mirza (PLD 2008 Lahore 527).

8. Since I have been given no reason to interfere with the concurrent judgments/orders passed by the learned Courts below, the instant petition is dismissed in *limine*.

(MIANGUL HASSAN AURANGZEB)
JUDGE

M.A.Baig.