

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

W.P. No. 3289 of 2020

MUHAMMAD AYAZ.
VS

MST. SHAZIA BIBI, ETC.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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22.12.2020

**Mr. Mohammad Shahzad Siddique, Advocate
for Petitioner.
Mr. Mohammad Yaqoob, Advocate along with
Respondent Nos. 1 to 3.
Mr. Daniyal Hassan, State Counsel.
Mr. Asghar, S.I.**

Petitioner, Muhammad Ayaz, has invoked
the constitutional jurisdiction of this court by way
of filing instant writ petition with the following
prayer:-

*“In these circumstances, it is therefore, most
humbly prayed that by accepting the instant writ
petition following directions may kindly be passed
in favour of petitioner and against the respondents:-*

- i. The respondents be ordered to produce
respondents No. 2 & 3 / the minors.*
- ii. The respondents may kindly be ordered to
handover the custody of respondents No. 2
& 3 / minors to the petitioner.*
- iii. The respondents may kindly be ordered not
to remove the minors from the territorial
jurisdiction of this Honourable Court.*

*Any other relief, which this Honourable Court may
deem fit and proper, may also be awarded.”.*

2. Respondent No.1/Mst. Shazia Bibi along with
the alleged abductees / Respondent Nos. 2 & 3
namely Ahsan Ayaz (aged 14 years) and Fatima
Batool (aged 10 years), the son and daughter of
Petitioner and Respondent No.1, is in attendance,
who stated that the minors were not abducted by

her rather they have left the house of the petitioner with their free will and came to her due to ill treatment and harsh behavior of the petitioner, her second wife and their step brother. She further stated that she has not contracted second marriage, as alleged by the petitioner, for the welfare and future of her children. Respondent Nos. 2 & 3 / alleged abductees, who look relaxed and comfortable with their mother, also affirmed the facts narrated by their mother / Respondent No.1 and expressed their willingness to live with their mother/Respondent No.1.

3. The petitioner has filed instant petition seeking recovery of the Respondent Nos. 2 & 3, allegedly from the illegal custody of the Respondent No.1/real mother, as she, as per agreement/Mubarat Deed dated 25.09.2019, signed by the parties at the time of pronouncement of Talaq, agreed that Respondent Nos. 2 & 3 were to be remained in petitioner's custody, whereas, their younger daughter was given in the custody of the Respondent No.1 for two years. In this regard, it is pertinent to mention here that as per settled law, even if either of the parents surrenders the custody of a minor in favor of other party, even then he/she cannot be deprived of his/her right of custody of the minor. Reliance in this regard can safely be placed on an unreported judgment of Hon'ble Apex Court passed in case titled as *Mst. Beena versus Raj Muhammad, etc. (C.P.No. 4129/2019).*

4. As the alleged abductees/minor children have been produced before the Court, who are

living with their real mother/Respondent No.1 and both are willing to go with her, therefore, no useful purpose would be served through proceeding further with the matter, hence, present petition is hereby dismissed, accordingly.

(LUBNA SALEEM PERVEZ)
JUDGE

Announced in the open Court on _____.

JUDGE

M. JUNAID USMAN