

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No.3435 of 2020

Mst. Kanza Khalil, etc
Versus
Additional District Judge, etc

Petitioner by:	Mr. Muhammad Saleem Khan Baloch, Advocate.
Respondent No.3 by:	Mr. Muhammad Saqib Bhatti, Advocate.
Date of hearing:	26.01.2021

Ghulam Azam Qambrani, J: Through this petition, the petitioner has invoked the jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 with the following prayer:-

"It is therefore most humbly prayed that the writ petition may kindly be accepted, the impugned judgments/decrees/order dated 03.11.2020, 10.10.2020 and 07.02.2020 to the extent of schedule of meetings of the respondent No.3 with may be modified to the extent of only one meeting in a month for one hour in the Court premises only, in the interest of justice.

It is further prayed the operation of the impugned judgments/decrees/order dated 03.11.2020, 10.10.2020 and 07.02.2020 may kindly be suspended till final disposal of the instant writ petition.

Any other relief, which this Hon'ble Court may deem fit and proper, may also be awarded."

2. Brief facts of the case are that the petitioner No.1 was married to respondent No. 3 on 04.08.2017 and out of the said wedlock, a daughter namely Khadija Taimoor was born on 01.09.2018, who is living with petitioner No.1; that respondent No.3 divorced petitioner No.1 on 27.07.2018 levelling false allegations against her. It is further stated that respondent No.3 filed a petition under Section 25 of the Guardian & Wards Act, 1890 for Guardianship & Custody of the Minor which was disposed of with the condition that custody of the minor shall remain with petitioner No.1, but an impracticable schedule of meeting has been devised through the said judgment

dated 07.02.2020. Being aggrieved of the said Judgment, both the parties preferred their respective appeals before the learned Additional District Judge-V-East, Islamabad which were dismissed vide consolidated judgment dated 10.10.2020, hence the instant petition.

3. Learned counsel for the petitioners has contended that the visitation plan framed by the learned Appellate Court is impracticable; that both the parties are inimical towards each other and no compromise has been effected between the parties with regard to visitation plan, therefore, the plan revised by the learned Appellate Court cannot be enforced; that petitioner No.1 is a working woman, she has to look after her parents and the minor daughter, as such it is impossible for the petitioner to comply with the orders passed by the learned lower Appellate Court. Further argued that respondent No.3 has contracted second marriage, therefore, the minor daughter cannot be left with him; that petitioner has no objection if respondent No.3 is allowed to meet minor daughter once in a month and that too in the Court premises for one hour only; that both the Courts below have not applied their judicious mind while passing the impugned judgment, therefore, the same are liable to be set aside.

4. On the other hand, learned counsel for respondent No.3 submits that respondent No.3 can pick and drop the minor from the house of petitioner No.1, therefore, no question can be raised about his meeting with the minor; that respondent No.3 is still paying the maintenance allowance to the minor even after arranging his second marriage. Lastly, prayed for dismissal of the instant petition.

5. Arguments heard, record perused.

6. A careful examination of the record reveals that the petitioner is aggrieved of the schedule of meeting of the minor daughter with respondent No.3, chalked out by the learned Guardian Judge and modified by the learned lower Appellate Court, whereas respondent No.3 has not challenged the custody of the minor to petitioner No.1, but he cannot be deprived of his legal and natural right of meeting with the minor especially when respondent No.3 is ready to provide

pick and drop facility to the minor from the house of petitioner No.1, therefore, petitioner No.1 is not justified to raise any question about his meeting with the minor as per the schedule framed by the learned lower Appellate Court. He is morally and legally entitled to meet his minor daughter, being her real father, in spite of the fact that he has contracted second marriage, as such, the learned Additional District Judge has framed the visitation plan of the minor with her father in the light of the judgment passed by the Hon'ble Supreme Court of Pakistan, reported as Mst. Madiha Younus Vs. Imran Ahmad (2018 SCMR 1991).

7. Learned counsel for the petitioners has failed to point out any illegality or irregularity committed by the learned lower Appellate Court calling for interference by this Court in exercise of its constitutional jurisdiction.

8. For the foregoing reasons, this petition having no force is hereby **dismissed**.

(Ghulam Azam Qambrani)
Judge

Announced in open Court on this 17th February, 2021.

Judge