

Form No: HCJD/C-121.

ORDER SHEET
ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT

Writ Petition No. 4168 of 2017

Sumaiya Afzal Butt, etc.
Vs
Akhtar Rasheed Butt and 02 others.

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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03.10.2019.	Mr. Muhammad Shahid Iqbal, Advocate for the petitioner. Mr. Muhammad Jahangir Khan, Advocate for the respondents.
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Through the instant petition, the petitioner has challenged judgment dated 20.10.2017 passed by respondent No.2 as well as 01.02.2017 passed by respondent No.3.

2. The facts, in brief, are that petitioner No.1 and the respondent got married on 11.04.1999. Out of the wedlock four children were born. Differences arose between the spouses, which culminated into divorce on 02.11.2013. Respondent No.1 filed a petition under Section 25 of Guardian and Wards Act, 1890, which was decided on 14.04.2015. The Constitutional petition was filed i.e. CP No. 1686/2015 in this Court assailing the judgments dated 14.04.2015 and 14.05.2015 which was allowed and the matter was remanded to the Guardian Court for decision on the question of jurisdiction. On

01.02.2017, respondent No.3 decided the matter on merit after deciding the question of jurisdiction on 21.06.2017. On 27.03.2017 an appeal was filed which was dismissed on 20.10.2017 as being barred by limitation, hence the petition.

3. Learned counsel for the petitioner, *inter alia*, contended that since the order in question is not sustainable, hence be set aside. It was submitted that the delay, if any, was required to be condoned.

4. Learned counsel for respondent No.1, *inter alia*, contended that the appeal preferred was barred by limitation, hence was rightly dismissed.

5. Arguments heard, record perused.

6. As noted above, the learned trial Court decided the application under Section 25 of Guardian and Wards Act, 1890 on 01.02.2017. The appellants applied for certified copy of the said order on 27.03.2017 and filed it on the same day. The limitation period provides for filing of an appeal to District Judge from the decision of the Guardian Court is 30 days, hence the appeal was barred by limitation. Even findings have been rendered on merit, which stipulate that the petitioner did not lead any evidence in the rebuttal to the evidence of respondent No.1.

7. In view of above position, the impugned order does not suffer from any error of law or jurisdiction.

8. For what has been discussed above, the instant petition is without merit and is accordingly **dismissed**.

(AAMER FAROOQ)
JUDGE

Shakeel Afzal