

ORDER SHEET
IN THE LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT

W.P. No.55216 of 2023

Muhammad Imran **Versus** Mst. Maham Manzoor and others

Sr. No. of order/ proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of parties of counsel, where necessary
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20.11.2025 Muhammad Rizwan Warraich, Advocate for the petitioner with petitioner in person.

Sh. Muhammad Tariq Inaam, Advocate for respondent Nos.1 to 3 with respondents in person.

The instant constitutional petition has arisen from contest over custody of the minor who is now approximately 12-years (DOB 07.6.2013). The petition brought under section 25 of the Guardians and Wards Act, 1890 by petitioner who is the father was accepted by order dated 11.4.2023 of the learned Guardian Judge, Sialkot which order was interfered with in appeal that was accepted by the learned District Judge, Sialkot who vide order dated 02.6.2023 set aside the same and entrusted the minor to the maternal grandmother instead of the two litigating parents who are both now with second spouses. They also both have progeny from their second marriages. The petitioner has five offspring whereas respondent No.1, Mst. Maham Manzoor, has two children from second marriage. In the circumstances the sole issue Mst. Maryam Imran out of the annulled wedlock inter se the petitioner and respondent No.1 is living with the maternal grandmother which arrangement has been affirmed as a result of the order dated 02.6.2023 of the learned District Judge, Sialkot. Both sides on question of visitation have apprised that matter to such extent is pending before the competent court.

2. The child is at an age where her intelligent preference could be obtained in exercise of sub-section 3 of the section 17 of the Guardians and Wards Act, 1890. The

judgment of the learned District Judge, Sialkot has been examined and it appears that one of the pivotal reasons to persuade the mind of the appellate court was the voice of the child who wanted to live with the maternal grandmother and was comfortable.

3. On scrutiny of the record and these aspects the Court also deemed it appropriate to examine the child from such point of view qua which a specific Order dated 15.9.2023 was earlier made. The child is present in Court who is clad in neat and clean clothes. She has a friendly demeanour and is clearly old enough to be heard in the matter. In this regard in its judgment dated 16.5.2025 in C.R.P. No.458 of 2024 titled Dr. Muhammad Asif v. Dr. Sana Sattar and others the honourable Supreme Court of Pakistan with regard to intelligent preference as contained at subsection (3) of section 17 of the Guardians and Wards Act, 1890 ruled as under:-

"4. ...The phrase "welfare of the minor can no longer be confined to its colonial-era meaning. Instead, it must be enriched by the modern, internationally recognized concept of the best interests of the child, as codified in Article 3 of the CRC, to which Pakistan is a State Party. The "welfare" standard is thus not static, it is a living standard that encompasses a child's emotional, psychological, cultural, and developmental needs, extending far beyond material well-being or parental preference. Moreover, the right of the child to be heard, as guaranteed by Article 12 of the CRC, must also be read into the application of Section 17. Any genuine assessment of the child's welfare or best interests is incomplete without ensuring the child's meaningful participation in the proceedings, appropriate to their age and maturity. By interpreting Section 17 in this harmonized manner, consistent with both international obligations and constitutional values, courts affirm that the provision requires not only an objective inquiry into what serves the child's welfare but also a procedural obligation to hear the child and give due consideration to their voice. This interpretive approach ensures that even a law as old as the Act remains a relevant and effective tool for delivering justice that is sensitive to the rights and realities of children today. To interpret it otherwise would be to render the statute obsolete, unfit for the constitutional and child-rights-informed present.

Voice of the Child

5. We underline that a child must be heard so that her best interests can be properly understood and protected. The participation of a child in legal proceedings is not a formality; it is fundamental to a justice system that respects the dignity and agency of the child. Listening to the voice of a child gives them a sense of worth, inclusion, and trust in the judicial process. As clarified in the UN General Comment No. 12, the views of the child must be seriously considered, not merely acknowledged. Listening to a child does not mean obeying them, but rather understanding their perspective deeply enough to act in their best interests.

...

13. Before parting with this judgment, we find it necessary to underscore that this decision must serve as a directive to all courts, particularly Family Courts and judges of the District Judiciary: *the voice of the child must be heard and respected in every custody and guardianship matter*. This is not an aspirational goal but a binding obligation under the CRC. We conclude this judgment with the words of James Baldwin, who said: "*The children are always ours, every single one of them, all over the globe; I am beginning to suspect that whoever is incapable of recognizing this may be incapable of morality.*" These words are a solemn reminder that courts, especially Family Courts have a moral and legal responsibility to see, hear, and protect every child not as a passive subject of proceedings, but as a rights-bearing individual whose dignity must be safeguarded at every stage of the judicial process."

4. The minor was allowed to express herself freely before the Court and has affirmed that she wishes to live with her maternal grandmother who is devoted to her, cares for her and whom she also likes very much. She states that since her birth she is accustomed to her company and the petitioner father has not taken much trouble to reach out to her or to shower her with paternal affection.

5. The case as such presents peculiar circumstances in which both former spouses appear steeped in their respective matrimonial lives with their second spouses and have children from those matrimonyies whereas the maternal grandmother is devoted to the minor before the Court. The senior lady herself is also in attendance who

appears to be alert and in good health who is expected to do her duty by the neglected child, spend time with her and guide her to enter into adulthood with a repaired spirit that at the moment appears to carry the melancholy of her father's neglect which he shall make every effort to rectify by paying regular maintenance allowance while the court concerned where the matter on visitation is statedly pending according to the parties shall ensure that a working visitation schedule is immediately enforced on receipt of this Order and is duly finalized keeping the welfare of the minor at the heart of such structure.

6. Entrusting custody with the maternal grandmother of minor daughters who are in such sensitive years of their development when they need the presence of sincere maternal care in certain situations is not alien to the policy of law and a number of precedents exist in this regard. Rule in Ameer Mai and others v. Addl. District Judge and others (2024 MLD 1433) Muhammad Azeem v. Addl. District Judge, Sialkot and 3 others (2021 YLR 2127), Mst. Rasheedan Bibi v. Addl. District Judge and 2 others (2012 CLC 784), Mst. Jamal and 2 others v. Addl. District Judge, Jatoi, District Muzaffargarh and another (2011 CLC 1912), Mst. Naseem Akhtar v. District Judge, Multan and others (2009 SCMR 1052) and Major Zafar Iqbal v. Mst. Rehmat Jan and another (1994 SCMR 339) may be cited. The order of the learned District Judge considered in such context protects the welfare of the minor in which the pristine voice of the child held its ground. **Dismissed.**

**(RASAAL HASAN SYED)
JUDGE**

Approved for reporting