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**IN THE SUPREME COURT OF PAKISTAN**  
(APPELLATE JURISDICTION)

52/25

**PRESENT:**

JUSTICE YAHYA AFRIDI, CJ  
JUSTICE MIANGUL HASSAN AURANGZEB

**CPLA NO.2788 OF 2022**

(Against the judgment dated 16.06.2022 of the Islamabad High Court passed in W.P. No.2383 of 2021)

Khurrum Javed and another

...Petitioners

**Versus**

Ahmed Bilal and others

...Respondents

For the Petitioners: Ch. Hafeez Ullah Yaqub, ASC

For the Respondents: Respondent No.1 in person.

Mr. Umar Farooq, Deputy Registrar /  
Accredited Mediator.

Date of Hearing: 30.06.2025

**ORDER**

**MIANGUL HASSAN AURANGZEB, J.-** Through the instant petition the petitioners, Khurrum Javed and Shazia Waheed, called in question judgment dated 16.06.2022 passed by the Islamabad High Court, whereby writ petition No.2383/2021 filed by respondent No.1, Ahmed Bilal, against the concurrent judgments and decrees dated 26.10.2020 and 30.01.2021 passed by the Judge, Guardian Court and the appellate Court, respectively, was allowed by setting aside the said judgments and decrees with certain directions. Vide said judgment and decree dated 30.01.2021, the appellate Court had dismissed respondent No.1's appeal against the Guardian Court's judgment and decree dated 26.10.2020 whereby respondent No.1's application under Section 25 of the Guardians and Wards Act, 1890 seeking permanent custody of the minor, Meher Fatima, was turned down resulting in the minor's custody to remain



with her maternal grandmother / petitioner No.2 herein. Additionally, the Guardian Court also chalked out a schedule for visitation between the minor and her father / respondent No.1. Meher Fatima's mother had died prior to the initiation of the custody battle between petitioner No.2 and respondent No.1.

2. The High Court allowed the writ petition against the concurrent orders of the Guardian Court and the appellate Court by holding *inter alia* that no third party, caregiver or guardian can be appointed a guardian in the stead of a biological parent of the child while the biological parent is alive and not found unfit by the Court to act as the guardian of his or her own child. By reason of this judgment, Meher Fatima's custody was taken from her maternal grandmother / petitioner No.2 by her father / respondent No.1.

3. This petition was first taken up for hearing on 08.12.2023 when notices were directed to be issued to the respondents. The matter remained pending before this Court until 14.05.2025 when this Court suggested to the contesting parties to resolve their disputes through a process of mediation. This was done bearing in mind Article 3 of the United Nations Convention on the Rights of the Child (ratified by Pakistan on 12.11.1990) which obliges courts to act in the best interests of children. The General Comment No.14 (2013) adopted by the Committee on The Rights of the Children at its 62<sup>nd</sup> session, stresses that this principle is not passive – it demands that judicial authorities facilitate participatory, child-sensitive mechanism including mediation.

4. After the contesting parties gave their consent for the dispute regarding Meher Fatima's custody and ancillary matters to be resolved through a process of mediation, this Court vide order dated 14.05.2025 referred the dispute to Mr. Umar Farooq, Deputy

Registrar, Islamabad High Court, who is an accredited Mediator duly notified by the Law and Justice Division under the provisions of the Alternative Dispute Resolutions Act, 2017. The Mediator was required to conduct the mediation process and complete the same within a period of one month and submit a report to this Court by 18.06.2025. The parties were urged to make efforts to commence the process of mediation at the earliest and conclude the same by the said deadline. It was clarified that the Mediator will not give any decision and his role was limited to facilitate the parties in arriving at a settlement. The Mediator was required to observe complete confidentiality regarding the mediation process, and not to disclose any information regarding the said process without the permission of this Court. The Mediator's report was required to be restricted to the following:-

- i) *identifying any party's unreasonable refusal to mediate or intentional stonewalling of the mediation process; and*
- ii) *if settlement proposals were exchanged, a brief description of the parties' respective settlement offers, identifying the points in the settlement offers on which the parties agreed and on which they disagreed. Provided that the Mediator's report was not to contain or allude to any confidential information, except to the extent that both parties consented in writing for the Mediator to disclose such information in his report.*

5. Furthermore, in the event the mediation was to succeed resulting in a settlement agreement, the parties were required to file in the Court a duly signed settlement agreement and countersigned by the Mediator.

6. The process of mediation that ensued after this Court's order dated 14.05.2025 resulted in an amicable settlement between the contesting parties regarding Meher Fatima's custody, visitation, educational arrangements and mechanisms for future cooperation aimed at her welfare. On 30.06.2025, the Mediator appeared before this Court with this welcome information. A copy of the settlement



agreement dated 17.06.2025 signed by the contesting parties and countersigned by the Mediator was placed on record. This settlement agreement reflects a model of co-parenting grounded in Meher Fatima's long-term welfare.

7. The mediation in this case was a compassionate effort to shift the narrative from adversarial contestation to mutual understanding. The outcome of the mediation process in this case stands as a re-affirmation that this form of an alternative dispute resolution mechanism is a pathway to substantive justice. It is also a testament to the fact that the emotional wellbeing of a minor cannot be preserved through litigation alone.

8. This Court appreciates the efforts made by Mr. Umar Farooq in guiding the parties towards productive communication and a shared commitment to resolution which resulted in the mediation being successful.

9. Office shall transmit a copy of this order along with the settlement agreement dated 17.06.2025 to the Guardian Court which shall draw up a decree in terms thereof at the earliest. This petition stands disposed of in terms of the settlement agreement and the impugned judgment dated 16.06.2022 stands modified only to the extent of its inconsistency with the terms of the said agreement.

Islamabad, the  
30<sup>th</sup> June, 2025  
Approved for reporting  
Ahtesham Majid