

Order Sheet
IN THE HIGH COURT OF SINDH, KARACHI

C.P. No.S-1043 of 2025

[Zain-ul-Abdin @ Faraz v. Mst. Tahira and another]

07.10.2025

Mr. Mushtaq Ahmed Joyia, Advocate for the petitioner.

ARSHAD HUSSAIN KHAN, J. Through the present constitutional petition, the petitioner has called in question the order dated **31.05.2025**, passed by learned XVI Guardian/Family Judge, Karachi-Central, in G&W Application No. 1446 of 2024, whereby petitioner's application, seeking temporary custody and visitation right with the minor, was disposed of. The petitioner in the instant petition seeks the following reliefs:

- “a) To set aside the impugned order dated 31-05-2025 passed by the respondent No.2 on application Under Section 12 of Guardian & Wards Act, and direct for meeting of petitioner with his minor son / ward at the house of petitioner in prime welfare of the minor to get him familiar with his paternal grand-family and also by considering rush and over population in the Court premises Meeting Hall.
- b) To direct the respondent No.1 to hand over the custody of minor to the Bailiff of the Court for handing over the interim custody of minor for meeting at the house of petitioner
- c) Any other relief / relieves which this Court may deem fit and proper under the circumstances of the case / matter.”

2. It is, *inter alia*, contended by learned counsel for the petitioner that the impugned order has been passed without due consideration of the facts and circumstances of the case. It is mainly argued that the learned Family Judge, while passing the impugned order, failed to appreciate that the petitioner, being the real father and natural guardian of the minor, Muhammad Yaseen, seeks restoration of his right to meet his child, a right safeguarded both under the law and the injunctions of Islam. It is further submitted that the petitioner resides in Gulshan-e-Iqbal, whereas respondent No.1 lives in North Karachi, a distance of approximately 8.6 kilometers, and that the petitioner's residence is more convenient and suitable venue for visitation than the congested and unhygienic meeting hall of the City Court. It is argued that the visitation at the petitioner's residence would better serve the child's

emotional and psychological well-being and preserve his natural bond with his father and paternal family.

3. I have heard learned counsel for the petitioner and perused the material available on record.

The arguments advanced by learned counsel for the petitioner are devoid of substance. The plea that visitation at the petitioner's residence would be more suitable has no legal or factual basis. The convenience of the petitioner cannot override the paramount consideration of the minor's welfare. The contention regarding congestion or inconvenience at the meeting hall is also unconvincing, since such arrangements are meant to ensure a neutral and secure environment for the child. No cogent reason has been shown to justify alteration of the existing visitation arrangement.

4. Now, it would be appropriate to reproduce the relevant portions of the impugned order hereunder:

- i. The applicant is permitted to meet the minor on the 2nd and 4th Saturday of each calendar month, in the Meeting Hall of the Family Court, from 11:00 AM to 12:30 PM, subject to payment of Rs.1,800/- per visit to the respondent as conveyance charges.
- ii. The applicant is further permitted to meet the minor on the third day of each Eid (Eid-ul-Fitr and Eid-ul-Adha), at the Food Court of Lucky One Mall, Karachi, from 5:00 PM to 7:30 PM, under the supervision of a Court bailiff. This arrangement is subject to the applicant furnishing his original CNIC and a Personal Recognizance (PR) Bond in the sum of Rs.500,000/-, ensuring strict compliance with the terms of this order.
- iii. The bailiff's fee, fixed at Rs.2,000/- per visit, shall be borne by the applicant.

Considering the age and welfare of the minor, the respondent (mother) is permitted to accompany the minor during the visitation, but she shall not interfere unnecessarily with the meetings.

In case the applicant fails to attend two consecutive scheduled meetings, the visitation rights granted herein shall stand suspended until further orders.

5. From a perusal of the impugned order, it appears that the learned Family Judge, while keeping in view the age and welfare of the minor, has passed an appropriate order strictly in accordance with law, which does not call for any interference by this Court.

6. Moreover, the jurisdiction conferred under Article 199 of the Constitution is discretionary in nature and is intended to advance the cause of justice rather than to perpetuate any alleged injustice. It is well settled that the constitutional jurisdiction is not that of an appellate forum; its scope is confined to examining whether any manifest illegality, jurisdictional error, or perversity is apparent on the face of the record. Where the fora of subordinate jurisdiction have exercised discretion judicially and on sound principles, the supervisory jurisdiction of this Court is not to be invoked unless such exercise is shown to be contrary to law or usage having the force of law.

7. In view of the foregoing discussion, no illegality, material irregularity, or jurisdictional defect is found in the impugned order. Consequently, this petition, being devoid of merit, is dismissed in **limine** along with all pending applications.

JUDGE

Jamil*