

IN THE HIGH COURT OF SINDH KARACHI

CP No.S-519 of 2025

(*Akhtar Hussain and another v. Mst. Tooba Irshad*)

Date of hearing and order: 09.12.2025

Mr. Muhammad Tamaz Khan, advocate for the petitioner
M/s. Syed Muhammad Abbas Haider and Atif Hafeez, advocates for
the respondent

ORDER

Nisar Ahmed Bhanbhro, J. Through the instant petition, the petitioners have challenged the order dated 17.05.2025 passed by learned Civil Judge & Judicial Magistrate-VII Karachi East in Guardian & Wards Case No.717 of 2025, whereby an application under Section 12 of the Guardian & Wards Act, 1890 (**G&W Act**), filed by the petitioners for the temporary custody of minors *Muhammad Jahangir & Mustafa Jahnagir* was declined.

2. Learned counsel for the petitioner submits that the petitioners are grandparents of the minors and they are denied visitation rights with the minors as their real father is residing in Saudi Arabia and he is providing proper maintenance to the minors. The petitioners being grandparents cannot be denied the meeting rights. He prayed that the impugned order being illegal and without jurisdiction may be set aside.

3. Learned counsel for the respondent submits that the minors are aged about 1 & 2 years respectively and they cannot be handed over to the grandparents. The custody of minors with their mother is in their welfare and grandparents at this tender age cannot provide the requisite tender care to the minors. He further submits that the order under Section 12 of the G&W Act, is appealable. The petitioners did not prefer any appeal, therefore, this petition is not maintainable.

4. Heard arguments of the parties and perused the material available on record. As to the maintainability of the petition, Section 47 of the G&W Act provides for the remedy of appeal against the orders

passed under Sections 7, 9, 25, 26, 38, 39, 40, 43, 44 & 45 of the G&W Act. There is no provision of appeal for order under Section 12 of the G&W Act, therefore, this petition is maintainable.

5. As far as the question of temporary custody of the minors with their grandparents is concerned, admittedly father of the minors is residing in Saudi Arabia and the minors are aged about 1 & 2 years respectively and at this stage the custody of the minors cannot be snatched from mother because a mother's lap is the best suited and natural fold for the minors to be retained at this stage. No illegality or infirmity has been pointed out in the impugned orders. This petition being misconceived is *dismissed* accordingly alongwith pending applications.

JUDGE