

ORDER SHEET
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

C.P No.S-2129 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on M.A No.7687/17.

For hearing of main case.

10.01.2019

Mr. Shakir Nawaz Shar, Advocate for Petitioner.

Mr. Habib-ur-Rehman Jamali, Asst: Advocate General.

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This petition impugns the judgment dated 25.10.2017, passed by the Appellant Court in Guardian Appeal No.26 of 2017. Earlier the trial Court through Guardian & Ward Application No.174 of 2016 handed over the custody of the minor girl to her mother (the respondent No.1).

Briefly, the couple got married in the year 2003 at Dadu, out of that a daughter namely Qurait-ul-Ain who is now approximately 13 years old was born. Through order dated 05.08.2017, custody of the minor was handed over to the mother and visitation rights were created for the father (the petitioner).

Learned counsel for the petitioner submits that since the day, the minor has been given in the custody of her mother, she is not attending school, which fact is also affirmed from the statements and evidence deposed by her mother and uncle. Learned counsel states that the court in the circumstances should have solely looked at the welfare

of the minor, and when she was admittedly not going to school, and where the father was willing to pay for expenses incurred in schooling, the custody of the minor should have been handed over to the petitioner father. Learned counsel further contends that the respondent has contracted second marriage however, no proof thereof is available with him.

Perusal of the impugned judgments show that the trial Court as well as Appellate Court after minutely going through the evidence and applying the principle of natural love and affection with the objective of securing welfare of minor came to the conclusion that custody of the minor should stay with the mother, which finding I do not find any reason to interfere with particularly when the petitioner admittedly has contracted second marriage. With regards the contention of the counsel for the petitioner that minor is not going to school and the petitioner is willing to pay all expenses of schooling, I do not see any problem with the mechanism that the petitioner provide additional sums payable as school fee, books and pick and drop charges and upon making such provisions, the respondent should admit the minor in any appropriate school.

In view of the above, the petitioner may start providing additional charges to the respondent mother to the extent of Rs.5,000/- per month over and above of the regular maintenance, and upon having received the said regular additional funds, the respondent No.1 shall ensure that education of the minor girl is not disturbed.

With this order, the instant petition is disposed of.

JUDGE

Fahad Memon