

have attained the age of majority. He states that he intends to transfer his property to his children due to his love and affection towards them. He also emphasizes over order dated 06.03.2014 passed by this Court whereby respondent No.1 and her husband Mitha Khan were called. He relied upon PLJ 1984-K page 147.

3. *Prima facie*, issue of custody of minors was decided by the trial Court as well appellate Court which the petitioner claims to be against the law *however* it is an admitted position that meanwhile the *minors* have attained *majority* hence are no more *minors*. The position, being so, gives rise to a *proposition* i.e:-

“What would be effect of attaining of majority during continuity of a lis, arising out of G&W Act?”

I would not hesitate in saying that *every* special law is aimed to *absolutely* and *exclusive* deal with special *situation* or *subject*. It is always the law which vests *jurisdiction* and mere status of a court shall be of no legal effect to dress it up as *special court* unless and until the *special* law so directs. Normally every ‘**adult**’ person is believed to be aware of consequences of his acts and omissions but in the case of a *minor* such is not the position and *legally* he (minor) cannot enjoy the *right* of choosing which *otherwise* is available to an ‘**adult**’. In short, the *minority* itself is taken as **legal disability** therefore, to ensure a *proper* care and protection to the ‘**welfare of minor**’ the State enacted “The Guardians & Wards Act”.

The *Act* is a *special* law and was / is enacted to *consolidate and amend the law relating to guardian and ward*. The term ‘**ward**’ has been defined by the Act itself as:-

“Section 4(3). ‘ward’ means a **minor** for whose person or property or both there is a guardian;

This *prima facie* means that a *guardian Court* would have *jurisdiction* only if the question of person or property of a **minor** is involved or is brought before the *Guardian Court* which, in law, is the *ultimate guardian* of the welfare of the minor regardless of dispute that it is for *person* or *property* of minor or for both. The moment *legal disability* (minority) turns into *legal ability* (majority) not only *jurisdiction* of the *Guardian Court* shall come to an end but also the powers of *guardian*, even if appointed, ceases. This *even* has been made clear by the *Act* itself by Section 41(1)(c) & 41(2)(c) for both i.e. ‘*powers of a guardian of person*’ and ‘*powers of a guardian of the property*’ as:-

“by the ward ceasing to be a minor;”

I would add a *little* that continuity of a *lis* includes appeal *too* which, in legal parlance is the continuity of original *lis*. Needless to say that Constitutional jurisdiction of this Court in matters of *writ of certiorari* is not an *independent* jurisdiction but is meant to control and supervise the *jurisdictional* power (s) of subordinate courts / tribunals hence at any *stage* of the continuity of a *lis* the turning of *legal disability* (minority) into *legal ability* (majority) would render such *lis* infructuous and any order would be *coram non judice* because it is a cardinal principle of law that the jurisdiction must be acquired before a judgment is given, and a judgment rendered by a Court which has no jurisdiction in the matter, is a nullity in the eye of law. Reference may be made to case of Mst. Imtiaz Begu v Sheikhk Azmat Ullah PLD 1959 Lahore 750. The concern of a *parent* towards his *children* regardless of their *minority* or *majority* cannot be doubted nor he /she (parent) cannot be prevented from such concern but such *concern* or apprehension *alone* would

never be sufficient to *infringe* any of the fundamental rights which *otherwise* are guaranteed by Chapter-II of the Constitution. Further, involvement of Mitha Khan (*husband of respondent no.1*) in criminal cases though was not considered at the trial stage however same at his stage is not helpful for the petitioner as minors have attained the age of majority. I would be *completely* safe in saying that no such *jurisdiction* lies with Guardian Court; its appellate or *supervisory* Court. The above proposition stands answered accordingly.

4. With regard to judgment reported in PLJ 1984-K 147 passed by a divisional bench of this Court wherein it is held that in case of admission, plea of petitioner therein would be allowed; that citation pertains to Local Government Election and is not helpful for the petitioner.

5. In consequence to above answer to framed *proposition*, the instant petition has become infructuous and is dismissed as such.

However, while parting I would respond to *other* plea (s), raised by petitioner, regarding his intention to transfer his property in favour of his children. It would suffice to say that since the no law of the *lands* restricts the petitioner from making such transfer of his property in favour of his children (if same is free from all encumbrances) then he needs no permission of any Court nor this *intention* alone could help him to control the wishes of an **adult** if he (**adult**) chooses *otherwise*.

6. With regard to influence of criminal person and apprehension of father (petitioner) that his children are still in youthful age and their future may ruin by the person who is involved in criminal cases, it would suffice to say that petitioner would be at liberty to approach concerned Magistrate as well SSP concerned if situation so demands. The SSP concerned, if

approached, shall investigate the matter and shall ensure that children of petitioner are safe; in case there is serious apprehension, steps shall be taken to provide complete protection to them which *even* otherwise is responsibility of the police.

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