

Order Sheet
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

CP No. S- 872 of 2019

Date of hearing:
& decision: 18.11.2019

Petitioner: Noor Ahmed present in person

Respondents 2&.3: through Mr. Lala Shahzad Memon, Advocate

ORDER

ADNAN-UL-KARIM MEMON, J:- The petitioner has called in question the orders dated 26.10.2019 and 18.9.2019 passed by learned Civil Judge / Family Judge-II, Badin, in Execution Application No.06 of 2019, whereby he allowed the Execution Application with direction to Mukhtiarkar concerned to submit report with regard to immovable property of the petitioner. Petitioner has also impugned the findings of learned Family Court on his Application for direction to the Decree Holder for arranging a meeting with Minor Baby Uneshra Fatima. Both the parties have consented for disposal of this petition at Katcha Peshi stage.

Applicant who is present in person has stressed that the findings of learned executing court are erroneous on every count; that he being the real father and natural guardian of Minor Baby has the visitation rights of his child, which cannot be curtailed; that the impugned orders passed by learned executing Court are full of errors, and against the principle of natural justice; that the findings of learned Court is arbitrary and perverse, thus liable to be set aside. He lastly prayed for allowing the instant petition.

Conversely, learned Counsel for the respondent has opposed the instant petition and supported the impugned orders passed by learned trial Court and contended that the captioned Petition is liable to be dismissed; that the grounds raised in the instant petition are untenable.

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

As per pleadings of the parties, which prima facie show the factual position of the case. The applicant is real father of the minor-Baby Uneshra Fatima and learned Trial Court has allowed him visitation rights subject to certain conditions vide impugned order dated 19.3.2018. The order of learned Trial Court has been assailed before this Court and the right of the parties to claim the custody of minor is yet to be adjudicated by learned Guardian and Wards Court Badin on merits. I am cognizant of the fact that welfare of the minor is a dominant factor while determining question of custody. In the light of foregoing, I am of the considered view that rights of the parties are yet to be adjudicated by learned Guardian and Wards Court, Badin; therefore, this petition is being disposed of in the terms whereby the Applicant, being father of minor baby Unshra Fatima, shall deposit an amount of Rs.4500/-(four thousand five hundred) per month, as well as balance amount as per terms of order dated 26.2.2018 passed by this court in Civil Transfer Application No. 06 of 2017 within a period of two weeks, in the account of Mother of minor baby for her wellbeing, her education expenses as well as other expenses, if any, shall be borne by the Applicant as per her requirement in social life. Applicant shall be entitled for visitation rights as per the terms of compromise Decree dated 19.3.2018 passed by learned Family Court in Suit No.115 of 2016, in a conducive atmosphere, without any aspersion, however, subject to her good health and ancillary conditions; that both the parties shall bury their hatchet and will endeavor for welfare of baby Unshra Fatima.

The above observation is tentative in nature which shall not prejudice either party in Custody case. However it is made clear that, till final adjudication of the custody case, breach of the aforesaid arrangement shall expose the parties to contempt proceedings.

This petition stands disposed of in the above terms.

JUDGE