

# **IN THE HIGH COURT OF SINDH, KARACHI**

Constitutional Petition No. S-1673/2017

Petitioner : Kashif Hussain Siddiqui through  
Mr. Ali Azad Saleem, Advocate.

Respondent No.1 : Mst. Erum Naz, Nemo

Date of hg : 25.04.2017

Date of Judgment :

## **J U D G M E N T**

**YOUSUF ALI SAYEED,J:-** This Petition calls into question the an Order made on 28.09.2016 (the “**Impugned Order**”) in Family Suit No.1686/2012 (the “**Family Suit**”) said to be pending before the learned Family/Civil Judge & JM-III, Karachi (West), whereby an Application under Order 6, Rule 17 CPC filed by the Respondent No.1 was allowed.

2. As per the title of the Plaint in the Family Suit, the Defendants Nos. 2 and 3 were shown as Baby Eman Irfan, daughter of Muhammad Irfan, and Baby Urwa Irfan, daughter of Muhammad Irfan. However, in the body of the Plaint it was specified that the two children born to the Petitioner and Respondent No.1 through wedlock on 09.03.2013 and 28.11.2013 are their son, Aneeq, and their daughter, Hira. Whilst the paternity of Aneeq and Hira stand acknowledged in terms of paragraph 2 of the Written Statement filed by the Petitioner in the Family Suit, it had been pointed out by the Petitioner that Eman Irfan and Urwa Irfan are not his children.

3. Apparently, it was merely this typographical error that the Respondent No.1 sought to have corrected in terms of the Application under Order 6, Rule 17 CPC, and vide the Impugned Order the proposed amendment was allowed, as in the opinion of the learned Judge it did not serve to alter the character of the Family Suit or the relief claimed, and the Respondent No.1 was directed to file the amended title accordingly.
  
4. The Petitioner nonetheless opposed the aforesaid Application on the basis that the affidavit filed in support thereof was that of counsel rather than the Respondent No.1 personally, and also that the provisions of the Code of Civil Procedure did not apply in respect of proceedings before the Family Court, which thus had no power to allow such an amendment. This Petition assailing the Impugned Order proceeds on the same basis, and learned counsel for the Petitioner has contended that the affidavit of counsel ought to have been rejected and the Application therefore ought to have been dismissed.
  
5. I am of the opinion that the contention advanced on behalf of the Petitioner is entirely misconceived, for while the provisions of the Code of Civil Procedure may not *stricto sensu* be applicable to proceedings under the Family Courts Act 1964, the Family Court is competent to adopt its own procedure for expeditiously disposing off matters that come up before it, and it can scarcely be imagined that any judicial forum could stand precluded from allowing a basic amendment in pleadings to correct a mistake apparent on the face of the record.

6. In view of foregoing, no case for interference stands made out. Accordingly, this Petition is dismissed with no order as to costs.

JUDGE

Talib