ORDER SHEET IN THE HIGH COURT OF SINDH, KARACHI

C.P No.S-793 of 2019

Order with signature of Judge Date

Hg. of Case.

- 1. For Orders on Office Objection.
- 2. For Orders on Maintainability of CMA No.3466/2019.
- 3. For Orders as to Maintainability.

25.03.2021.

Ms. Arjumand Saeed advocate for the petitioner. Mr. Qazi Umair Ali advocate for respondent No.1. Mr. Ali Zardari, AAG. -----

Instant petition is filed against the concurrent findings recorded by both courts below whereby application for interim custody was declined. However, visitations were allowed with rider. Being relevant Para-12 & 13 are that:

"12. At this stage, I would like to divert into the main controversy between the parties. As per record, illness of the minor Ameer is admitted by the appellant and on consultation by appellant, from the same doctor, who also confirmed about ailment of said minor and treatmen so advised. No doubt, father and mother have legal rights over their children. Under the scheme of law, in order to meet the ends of justice, at any state, the court has to consider the welfare of the minors and not other things. In the instant matter, the respondent intend to get medical check up and treatment of her son Ameer at London. At his juncture, the appellant may avail the right of visitation during the tenure of medical check up / treatment of the minor Ameer at London. However, the appellant is set at liberty allowed to meet with the minor Ameer at London hospital for meeting purpose as well as in order to get treated/check up by the concerned medical officer.

13. Besides to above, in the light of above allow circumstances and reasons Ι also the appellant/father of the said minors, to meet the minors on second day also of both Eids, from 10:00 a.m. to 1:00 p.m. subject to payment of fare charges of Rs.2000/- to each visit. The respondent is directed to ensure presence of minor on meeting days. It is pertinent to mention here all the meetings will be held

in presence of bailiff of the court in the meeting room of the court premises. I have much respect for the case law produced by the learned counsel for the appellant but the same are not applicable in the instant case being distinguished with the facts and circumstances of the case".

Learned counsel for the petitioner while admitted that Guardian and Ward Application is pending for adjudication contends that sufficient time is not provided to the petitioner with regard to visitation. Without prejudice to the merit of the case as lis is pending before the competent court to decide the issue after leading evidence. It would be conducive to say that learned counsel for the petitioner failed to point out any illegality or irregularity in the impugned orders. Accordingly, instant petition is dismissed.

JUDGE

M.Zeeshan