

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

C.P. No. S – 796 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGES
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1. For order on CMA No.4967/2022
2. For order on office objection
3. For hearing of CMA No.4153/2020
4. For hearing of main case

23rd December, 2022

M/s. Shahid Hussain Soomro and Sajid Hussain Soomro, Advocates
for petitioners.

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Omar Sial, J: I have heard Mr. Shahid Soomro and Mr. Sajid Soomro, advocates for the petitioners. A brief background to this case is as follows:

2. Petitioner No. 2 Samina Solangi was married to Respondent No. 1 Naveed Akhtar in the year 1999. They had one daughter by the name of Noor Fatima, who is Petitioner No. 1 in these proceedings. Unfortunately things did not work out between the couple and the marriage was annulled in the year 2008.

3. An application under the Guardian & Wards Act, 1890 (being G&W Application No. 09 of 2006 (Old Number) and 01 of 2008 (New Number)) was filed by Naveed Akhtar before the learned 4th Senior Civil Judge, Larkana seeking custody of Noor Fatima. The application was dismissed on 25.10.2016. An appeal was preferred before the learned 6th Additional Sessions Judge, Larkana (being Guardian Appeal No. 5 of 2016). This appeal was decided in Naveed Akhtar's favour on 05.08.2017 and custody of Noor Fatima was directed to be handed over to Naveed Akhtar.

4. On 18.01.2010 this court in Criminal Transfer Application No. 55 of 2009 filed by Samina Solangi disposed of the application in terms of which the 2 parties reached a negotiated settlement. It appears from the record

however that the parties did not comply with the agreement reached in the order of 18.01.2010 and contempt applications were filed by both sides blaming the other for not complying with the agreement. The court on 17.05.2010, once again, passed an order which lay down an agreement between the parties as far as visiting rights of the parents were concerned. The order dated 17.05.2010 was appealed against by Imtiaz Ahmed, father of Naveed Ahmed before the Honorable Supreme Court (being Criminal Petition No. 283 of 2010). This petition was dismissed on 16.09.2010.

5. It appears that in the interim an Execution Application No. 1 of 2017 was filed before the learned 3rd Senior Civil Judge, Larkana for the implementation of the judgment in Guardian Appeal No. 5 of 2016. These proceedings are still going on.

6. On 20.09.2022, Naveed Akhtar's father Mr. Imtiaz Bhatti filed a statement in Court reflecting that neither he nor his son Naveed Akhtar could attend to the hearings anymore and that they will not come due to changed difficult circumstances in their lives.

7. Before the execution proceedings could complete, Noor Fatima has now attained the age of majority. On 22.11.2022, Noor Fatima filed a statement in court, which is on record, and which reflects that she does not want to meet her father Naveed Akhtar let alone live with him. She wants to live with her mother. She has also been issued a National Identity Card No. 41302-9657633-8. The same day i.e. on 22.11.2022, Noor Fatima also appeared in court herself and confirmed that the application and affidavit was filed by her, she does not want to see her father, she wishes to live peacefully with her mother. She also produced her original National Identity Card to show that she had attained the age of majority.

8. As Noor Fatima is now an adult she has all right to solely decide where and with whom she wants to live and who she wants to meet or not. She cannot be forced to live with her father, for which the execution proceedings are underway. The execution proceedings have become infructuous. Upon a query from the learned counsel as to why Noor Fatima

did not appear before the learned executing court which would have perhaps been the proper forum and there appeared no reason why the learned executing court would not pass the relevant order in light of the changed circumstances, the learned counsel stated that Noor Fatima and her mother Samina Solangi, both fear for their safety and lives to go into the territory of Larkana, due to the influence that Naveed Akhtar and Mr. Imtiaz Bhatti exert over there. Noor Fatima also looked visibly shaken at the thought of going to the court in Larkana. She has moved to Islamabad fearing threats to her safety from Naveed Akhtar and his family.

9. In view of the above, as Noor Fatima is no longer a minor, the execution proceedings pending before the learned 3rd Senior Civil Judge, Larkana seeking handing over custody of Noor Fatima to her father Naveed Akhtar, have become infructuous and hereby quashed.

10. The petition stands disposed of in the above terms alongwith pending applications.

JUDGE