

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
C.P. No.S-554 of 2023

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Date	Order with Signature(s) of Judge(s)
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- 1.For orders on office objection No.19 and reply of counsel as at 'A'.
- 2.For hearing of CMA No.4368/2023.
- 3.For hearing of main case.

**14.06.2023**

Ms. Nazia Siddiqui, Advocate for petitioner.  
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Through this Constitution Petition, Petitioner Mst. Umm-e-Hani has assailed the order, dated 31.05.2023, whereby the learned XIV-Civil/Family Judge Karachi-East, has allowed an application filed by the respondent No.2 in G&W application No.1007/2021 for having the interim custody of the minor baby Rahima from 05.06.2023 to 20.06.2023 during summer vacations.

**2.** Learned counsel for the petitioner contends that the marriage between the petitioner and the respondent No.2 has already dissolved by Divorce Deed, dated 27.08.2023; that the respondent No.2 was required to pay the maintenance of the said minor baby at the rate of Rs.25,000/- per month as per order dated 28.09.2022 passed by the Family Judge in Family Suit No.405/2021 but he failed to comply with the said order; that the respondent No.2 is compelling the minor baby to stay overnight at his house, which will add a huge burden on his shoulder who is already carrying many responsibilities; that the respondent No.2 has already contracted second marriage and resides with his new wife; hence, in case the minor is allowed to reside at the house of respondent No.2, she will likely to spend night in isolation.

**3.** Heard the learned counsel for the petitioner and perused the material available on record.

**4.** It is an admitted position that the G&W Application No.1007/2021, filed by the respondent No.2 against the petitioner for the custody of Baby Rahima was dismissed by the Family Court vide judgment, dated 15.09.2022; however, considering the facts that the respondent No.2 is real father and natural guardian of the minor baby Rahima, the Family Court considered that it would be in the interest of respondent No.2 as well as minor baby to have sufficient time and opportunity to meet each other and for such purpose, the Family Court continued meeting of the minor baby with the respondent No.2 in the meeting hall of the District Court twice in the month as per earlier order dated 15.09.2021 and further allowed the respondent No.2 to have interim custody of the minor baby on occasions like Eid, Birthday, etc. subject to permission of the Court. The petitioner did not challenge the aforesaid judgment/order before any forum and hence, the same has now attained finality.

**5.** The impugned order has been passed by the Family Court keeping in view the facts of the said judgment that the respondent No.2 is entitled for having interim custody of the minor baby on the occasions. The Family Court vide impugned order has already taken into consideration all the precautions to ensure that the custody of the minor is not removed by the respondent No.2 who has been directed to furnish solvent surety in the sum of Rs.100,000/- and deposit original passport and the C.N.I.C. with the Nazir of Family Court. Further for the smooth compliance of the said order, the Family Court has appointed the Bailiff of the Court as Commissioner for taking and handing over the custody of the minor Baby Rahima from the petitioner's house to the house of the respondent No.2 at 10:00 a.m. of 05.06.2023 and from the house of respondent No.2 back to petitioner's house at 10:00 a.m. on 20.06.2023.

**6.** So far the issue of non-payment of maintenance by the respondent No.2 is concerned, this issue is to be seen by the Family Court if such order of maintenance is not being complied with by the respondent No.2 and for that the petitioner is at liberty to approach the Family Court for redressal of her grievance.

**7.** For the forgoing facts and reasons, I do not find any illegality or irregularity requiring any interference of this Court under its Constitutional jurisdiction. Accordingly, instant Constitution Petition is dismissed being devoid of any merit along with pending application.

JUDGE