

IN THE HIGH COURT OF SINDH AT HYDERABAD

CP No.S-127 of 2022 : Shoukat Hussain Shaikh (petitioner).
For the Petitioner/s : Mr. Riazuddin Qureshi, Advocate.
For the respondent/s : Ms. Rehana Siddiqui, Advocate.
Date/s of hearing : 24.10.2023.
Date of announcement : 24.10.2023.

ORDER

Agha Faisal, J. The petitioner had filed Guardian Application No.293 of 2019 before the Family Judge, Hyderabad. The plea of the petitioner to be appointed guardian was not accepted and the application was disposed of in terms herein below:

“Hence, in my humble opinion the applicant is not entitled for custody of the minor, however, he has right to meet his son being real father therefore, he is allowed to meet his son/minor. The respondent is directed to produce the minor before this court on every first (1st) and third (3rd) Saturday of each calendar month, into the Court between 1300 hours to 1400 within this Court premises for the purpose of meeting in adherence of COVID-19 SOPs as directed by the Honourable High Court of Sindh, Karachi in the circular dated 20th March, 2021. Further, the applicant is directed to pay Rs.500/- to the Opponent as conveyance charges for each meeting and not to take minor out of the Court premises without permission. Moreover, applicant is also entitled for meeting with the minor on special occasions including Eid-ul-Fitr, Eid-ul-Azha, Summer Vacation & Winter Vacations (when admitted in school) and Birthday of Minor subject to filling proper application and with the approval of the Court keeping in view the welfare of minor. Hence, in above terms the above guardian & wards application/case stands disposed of accordingly with no orders as to cost .”

2. The petitioner filed guardianship Appeal No.19 of 2021 before 9th Additional District Judge, Hyderabad and the same was also dismissed vide judgment dated 26.01.2022.

3. The matter has been conclusively determined and per statute, finality is attached to the appellate order referred to supra. This petition assails the concurrent findings of the statutory hierarchy in the writ jurisdiction of this Court; however, the same has been disapproved by the Supreme Court in *Hamad Hasan*¹ and earlier similar views were also expounded in *Arif Fareed*². Therefore, in *mutatis mutandis* application of the reasoning and ratio illumined, this petition is found to be misconceived, hence, dismissed with listed application.

Judge

Ahmed/Pa,

¹ Per Ayesha A. Malik J in yet to be reported judgment dated 17.07.2023 delivered in *M. Hamad Hassan vs. Mst. Isma Bukhari & Others* (Civil Petition No.1418 of 2023).

² Per Amin ud Din Ahmed J in yet to be reported judgment dated 06.12.2022 delivered in *Arif Fareed vs. Bibi Sara & Others* (Civil Petition No.5601 of 2021).