

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C.P No.S-341 of 2024

Order with signature of Judge(s)

Fresh case

1. For orders on CMA No.3055/2024 (Urgent Application)
2. For orders on CMA No.3056/2024 (Exemption Application)
3. For orders on CMA No.3057/2024 (U/O XXXIX Rules 1 & 2 r/w 151)
4. For hearing of main case

15.03.2024

Mr. Irfan Bashir Bhutta, Advocate for the petitioner

1. Urgency granted.
2. Exemption granted subject to all just exceptions.
- 3&4. Learned counsel for the petitioner states that while the Guardian and Wards Court through a consolidated order dated 21.02.2024 handed out custody of the minor to the Petitioner mother as well as granted guardianship to her whereagainst the Respondent No.1 (father) had chosen to filed an appeal with the following prayers:-

- I. Set aside, and during pendency suspend the operation of, the Impugned Judgment dated: 21.02.2024.
- II. Set aside, and during pendency suspend the operation of, the Guardianship Certificate dated: 21.02.2024.

Alongwith the said application, counsel states that the said Respondent moved application under order XLI Rule 5 CPC seeking *status quo* during pendency of the appeal. Counsel states that the appellate Court vide order dated 07.03.2024 issued notices to the present petitioner however in the meanwhile *status quo* was granted. However on a later date, without having notice been served to the petitioner, order dated 11.03.2024 was passed giving directions to the concerned authority to withhold release/delivery of passport of the minor to anyone, including the petitioner mother. Counsel states that first of all no such prayer was made either in the appeal or in the interim

application therefore such an interference by the appellate Court is beyond its jurisdiction, secondly the counsel adds that CPC does not apply to the family courts and thirdly learned counsel adds that in disguise of these confusing orders, process of preparation of the passport of the minor is halted. A request is made that while the appellate Court would be liberty to withhold the passport, unless need is shown by any party, the process of preparation of the passport, which is fundamental right of the petitioner and the minor, should not be curtailed.

Let notice be issued to the respondents as well as A.G Sindh for **27.03.2024**. In the meanwhile, respondents are directed to proceed with the preparation of the passport of the minor in accordance with law upon any such application made to the authorities and once the passport is ready and if appellate Court desires the later could retain custody thereof till a request is made by any of the party to travel abroad with the minor.

JUDGE

B-K Soomro