

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.S-126 of 2023

Date	Order with signature of Judge
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- 1.For order on office objection
- 2.For hearing of CMA No.1169/2023
- 3.For hearing of main case

03.04.2024

M/s. Muhammad Aslam Bhutta, Shah Zaman Bhutta, Aftab Ali Mastoi, Mansoor Ali Maitlo, Advocates for the petitioner.
Mr. Khalil Arif, Advocate for the respondent.

This petition challenges an order dated 13.09.2022 passed by learned Additional District Judge East, Karachi in Family Appeal No. 169/2022. Learned counsel for the petitioner states that after the divorce communicated to the petitioner mother who had already given birth to two daughters on 12.04.2021, she moved to her ancestral place in Gujranwala as admitted that since the date of divorce, not a single penny has been provided by the father either to maintain the wife during her Iddat period nor paid any maintenance for the two daughters and admittedly the Family Suit No. 4700/2018 for dower amount and maintenance was filed in Karachi in the year 2021 that was too was filed through father of the petitioner as the petitioner had taken refuge in Gujranwala to raise the two daughters. Review of the impugned order suggests that the appellate Court set aside the findings of the learned trial Court on the ground that the said Court passed the order without making any inquiry and appreciating relevant Rules in deciding the territorial jurisdiction. The appellate Court also did not show any Rules on the basis of which an order of the trial Court was set aside. The Law

concerning jurisdiction of G&W Court is given under Section 9 of the Guardians & Wards Act where the jurisdiction lie with the District Court where the minor ordinarily resides when the dispute between the parties commenced where in fact it was the petitioner who filed suit for maintenance and dowry articles. She was divorced by the respondent husband which led her to take the minors to outside the Karachi in Gujranwala. The true interpretation of Section 9 if whatever have been made by the Appellate Court, the impugned order would not have been passed. Learned counsel for the respondent has completely supported the version of the appellate Court and admitted that the petitioner has not provided any maintenance, however, suggests that the father has made investments in property and banks to raise her daughters and has attempted to persuade this Court that since the mother has taken away the minors during pendency she should be forced to come back to Karachi to defend these proceedings, however, unable to satisfy that where the lady will stay and how would she be maintained, so the balance of convenience definitely lie in favour of the petitioner lady. For the above reasons, the petition is allowed and the impugned judgment of the Appellate Court as well as order dated 26.10.2022 set aside where the directions were issued to the petitioner lady to bring the minors to have the respondent father meet in Karachi.

JUDGE