

IN THE HIGH COURT OF SINDH, KARACHI

CP No.S-277 of 2024

*[Muhammad Nadeem and another vs. Sumeira Nadeem
Sulemani and others]*

Date of hearing : 04.03.2024

Petitioners No.1 and 2

[Muhammad Nadeem and

Imtiaz Ali Shah, respectively]

: Through Petitioner No.2-Imtiaz
Ali Shah, Advocate in person.

Respondent No.1

[Sumeira Nadeem Sulemani]

: Nemo

Respondent No.2

[The Family Judge-XVI,

Civil Judge and Judicial Magistrate,

Karachi South]

Respondent No.3

[Additional District Judge-VII,

Karachi South]

ORDER

Muhammad Faisal Kamal Alam, J: The matter was reserved for passing of Order on the maintainability of this Petition.

2. The Petitioners have challenged the Order dated 9th December 2023, *inter alia*, referring the matter of Petition No.2 to the Disciplinary Committee of the Sindh Bar Council, and the Order dated 17th February 2024, passed by the learned Appellate Court in the Family Appeal No.215 of 2023, dismissing the same.

3. The learned Advocate (present Petitioner No.2) has argued that the Petitioner No.1 has filed a Guardian and Ward Application No.2330 of 2022 against the Respondent No. 1, *inter alia*, seeking custody of the minor, that is, his Son-Muhammad Sahib Nadeem Sulemani, *whereas*, the Respondent No.1 has filed a Suit for Dissolution of Marriage through

Khula, being Suit No.2256 of 2022; the Petitioner No.2 being Advocate is representing the Petitioner No.1 in these Cases; that referring his [Petitioner No.2] matter to the Disciplinary Committee is uncalled for, as the Petitioner No.2 has acted professionally and diligently; although this shows the biasness of the learned Judicial Officer towards the Petitioners; requested that both the Impugned Orders be set-aside.

4. Record considered.

5. It is necessary to mention that from the Record it appears that a Civil Transfer Application No.59 of 2023 is also *sub judice* in this Court, filed by the present Petitioner No.1 so also a Complaint before the Member Inspection Team about the conduct of the Judicial Officer [the Respondent No.2], who is seized of the above *Lis*.

6. The Order dated 9th December 2023 [the impugned Order] is perused. It is stated in the said Order that since a Transfer Application has been filed, therefore propriety demands that he [the Respondent No.2] should not proceed with the matter, until specific orders are given by this Court [High Court] in the said Transfer Application, wherein certain allegations are levelled about the conduct of the learned Presiding Officer [the Respondent No.2]. However, during proceeding purported behaviour of the Petitioner No.2 [Advocate] has been mentioned in the impugned Order, of which he is aggrieved of. This was challenged in the above Appeal, though unsuccessfully, and the impugned Order dated 17th February, 2024 dismissed the Appeal, *inter alia*, on the ground that no order has been passed concerning the Case itself, thus, the Order of 9th December, 2023, is not appealable; besides, the Appellate Court has restrained itself from entertaining the request of Petitioner No.2, about expunction of remarks against the latter, as the matter is pending before the MIT [of this Court].

7. It is also pertinent to mention that few lines of Paragraph-11 of the present Petition are unnecessary and improperly phrased and need to be deleted. Thus, the Office of this Court is directed to Delete with red ink Lines 10 to 15 from the top of this Paragraph-11.

8. Since the issues agitated in the present Constitution Petition are *sub judice* in the above Transfer Application, before the MIT and the Disciplinary Committee, therefore, in these circumstances, no interference is required in the impugned Orders, which otherwise are not illegal.

9. Consequently, this Petition is dismissed. It is clarified that any observation mentioned herein above is of tentative nature and will not prejudice the pending proceedings.

JUDGE

Karachi
Dated 07.03.2024
M.Javid PA

