

IN THE HIGH COURT OF SINDH AT KARACHI

C.P. NO.S-687/2020

Petitioner : Captain Muhammad Ahmed Faruqui,
through M/s. Yahya Iqbal and Asif Khawaja
advocates.

Respondents : Xth Additional District & Sessions Judge,
Karachi East and another.
through Mr. Ayaz Ahmed Ansari, advocate for
respondent No.2.

Date of hearing : 12.12.2022.

Date of announcement : 22.12.2022.

ORDER

SALAHUDDIN PANHWAR, J. Parties have reached at an interim arrangement as to meeting with the minors and submitted such schedule signed by learned counsel for respective parties, which is reproduced as under:-

“1. That a) Master Muhammad Ariz Faruqui now aged around 15 years of age holding Child National Identity Card No.42201-3160941-9 and, b) baby Amna Faruqui now aged 11 years of age holding Child National Identity Card No.42201-5954270-8 (hereinafter both the children are referred to as the minors) in favour of the petitioner for the terms and conditions defined below: -

1-A. That both the minors are living with the petitioner at House No.433, Street No.2, Overseas Sector 8, Bahria Town Phase 8, Rawalpindi.

2. That the Honorable Court shall have the Jurisdiction to adjudicate and look after the welfare of the minors by appointing any of its officer (Member Inspection Team, or any other judicial officer of the Court) in the matter to respond for immediate assistance of the minors and the Respondent No.2 in the matter.

3. That this Honourable Court shall appoint any of the officer of the Court available in Rawalpindi/Islamabad for the same purposes of this settlement proposal in respect of welfare of the children and to watch over the minors.

4. That the petitioner shall have the custody of the minors having fiduciary relationship with them and the Respondent No.2 being their mother shall have visitation rights to meet both the children in following terms;

- I) On every alternate weekend, minors shall reside with the Respondent No.2. The Petitioner on alternate weekend shall drop the minors at the residence of Respondent No. 02 at approximately 5pm, and pick them up on Sunday at approximately 5pm from the residence of the Respondent No. 02.
- II) The Respondent No.2 shall have right to a video call meeting with the minors from Monday to Thursday from 6:00 PM to 8:00 PM (or mutually agreed time); but the minors shall have access to mobile/telephone 24 hours seven days a week to communicate with Respondent No.2.
- III) The Petitioner shall hand over the custody of Minors to Respondent No. 2 for one month (30 days) of the summer vacations as declared by the School / Government. The Petitioner will hand over the custody of Minors on 1st day of summer vacations at 5:00 pm and the Respondent No.2 shall return the custody to the Petitioner on the 30th day of the summer vacations at 5:00 pm. The Petitioner shall drop and pick up the Minors at and from the place of Respondent No. 2. Furthermore, minors while visiting Respondent No.2 the minors shall carry their Travel Documents, Child Identity Card and Vaccination Card and if any travel arrangements are made the Respondent No.2 shall inform the Petitioner and vice versa.
- IV) The Petitioner shall hand over the custody of the minors for 12 days of the winter vacations from the 1st day of winter vacations as declared by school/ Government at 5:00 pm. The Respondent No. 2 will return the custody of the Minor on 12th day of such winter vacations at 5:00 PM. The Petitioner shall drop and pick up the Minors at and from the place of Respondent No.2.
- V) The Respondent No.2 shall be allowed to spend Eid holidays with the minors as declared by the Government, in which case the petitioner shall drop the minors at the residence of the Respondent No. 2 on the Chaand Raat/ Evening and shall pick them up from the residence Respondent No. 2 on the third day of Eid-ul-Fitr in the evening, and the minors will spend Eid-ul-Adha with the petitioner and next year the minors will spend Eid-ul-Fitr with the petitioner and minors will spend Eid-ul-Adha with the mother (i.e. minors will spend the Eid with the respondent No.2 and petitioner in rotation) and the minors will be dropped at respondents No.2 place in the evening of Chaand Raat and will be collected/picked in the evening of third day of Eid.
- VI) The Respondent No.2 shall take custody of both the minors during their birthdays, the petitioner shall drop the minors at the residence of the Respondent No. 2 and he shall pick them up from the residence of the Respondent No. 2. Needless to state that the timings maybe decided by the parties in advance.

- VII) The Respondent No.2 shall be allowed to attend parent teacher's meetings of the minors and any event and functions held at Roots School, DHA 1/IVY School Flagship Campus, DHA, Phase I, Rawalpindi.
- VIII) That minors should be allowed to receive any gift items, food delivery, clothes, books or any item Respondent No.2 wishes to send to the minors at the resident of the petitioner and the petitioner and any of his family member shall not refuse to accept the same on behalf of the minors.
- IX) That if the Respondent No.2 is in Rawalpindi/Islamabad she shall be allowed to visit the minors at her expense and/or take them out to have some time with the minors provided that School of the minors is not disturbed.
- X) The petitioner shall bear the travelling and transportation expenses only of the minors while meetings with the Respondent No.2 within Karachi and/or in Rawalpindi/ Islamabad so that there should be no financial constrains that prevent the Respondent No.2 from meetings with minors. The Respondent No. 2 shall bear the remaining expenses if any of the minors while they are with respondent No.2.
- XI) That Respondent No.2 shall have access to the school of the minors and this Honourable Court shall direct the school of the minors to report/communicate the necessary communications of minors relating to education, behavioral etc. to the Respondent No.2.
- XII) That the Petitioner during the course of his service if travelling outside Pakistan and or leaving the jurisdiction for more than 24 hours, then he shall inform the officer of the Court to check for the wellbeing of the minors in his absence and if required the custody of the minors to be handed over to the Respondent No.2.
- XIII) That minors attaining the age of eighteen (18) years shall be at liberty to make their own decision.
- XIV) That the minors if inclined or want to live with Respondent No.2 shall inform the appointed officer of the court who shall make an application to this Honorable Court on urgent basis for deciding the request of the minor/s.
- XV) That the appointed officer of court shall visit the minors for ensuring the welfare of the minors and shall inform the Respondent No.2 accordingly.
- XVI) That if the petitioner or the Respondent No. 2 shall violate any of the terms as submitted herein the same shall be reported to the Officer of the Court who shall have the power to take appropriate legal action which shall not be limited to civil but penal consequences also.

5. Legal custody for the purpose of this Agreement refer to the authority to make decisions regarding minors which can include but is not limited to health care, religion and education. The parties to maintain joint legal custody of their minor's children. However, the minor after attaining the age of majority are allowed to make their own decision regarding their personal life.

6. Physical custody for the purpose of this Agreement refers to the authority to make routine and day to day decisions regarding the children.

7. Both parents are entitled to important information regarding the children including but not limited to, the children's current address and telephone number, education, medical government agency, psychological and law enforcement records.

8. Information about the children's program in School and any School activity in equally available to both parents. Both parents are encouraged to consult with School staff concerning the children's welfare and education. The Respondent No.2's cell number/contact number and addresses should be provided to all the School / College where minors are studying. Furthermore the petitioner shall ensure that school authorities shall give free accesses to the respondent No.2 for enquiring regarding the welfare, education activities and behavioral attitude of the minors and to give suggestions for addressing such issues if any.

9. Both parties will immediately notify each other regarding any emergency circumstances or substantial changes in the health of the minors.

10. Both the parties will provide each other with contact numbers and addresses and will notify each other any change in that information within 24 hours of such a change. If either parent takes the minors from their usual place of residence, they will provide the other parent with an emergency contact phone number.

11. That both the parents shall have right to communicate by telephone, in writing or by email with the minor during reasonable hours without interference.

12. Whenever possible, when disputes arise between the parents shall discuss the issues and attempt to reach an agreement based on what is best for the children at the particular time. If the parents are unable to reach an agreement on an important issue about our children after having discussed it with each other, either parent initiate dispute resolution by;

(a) Arranging for the parents to meet with a trained mediator to try and reach an agreement.

(b) Court

13. Petitioner shall be responsible for all costs of air fare and or transportation till Karachi to exercise visitation purposes. Petitioner will inform the Respondent No. 2 in advance about all the flight timings.

14. The petitioner agree that he will notify immediately to the Respondent No.2 regarding change of his address. The parties agree to provide each other with their current phone number, WhatsApp number (WhatsApp group of Respondent No.2, minors and petitioner) and physical address.

15. The petitioner shall be responsible for paying the costs of the minors attending School / College / University education.

16. The Petitioner shall provide to the minors all communication devices i.e., Laptops, Mobiles, I-pads or any other devices according to current times for communication with the Respondent No.2 and the person appointed by the Court to check for the welfare of the minors. The minors will have a right to call Police for their assistance in case any of their grievances with the Petitioner, Respondent No. 2 and / or their step mother or any other person and the Police shall ensure to respond to the call of the minors immediately.

17. Both the parents shall visit any government office or authority to make or renew any official documents such as passport or CNIC of the minors.

18. In Islamic studies both the parents shall ensure that both the minors shall get proper Islamic education.

19. That petitioner covenant/ensures the respondent No.2 that minors will not be ill-treated by their step mother; yet minors will be taken good care by their step-mother.

20. In case of death of the Petitioner or Respondent No. 2 this Honorable Court will immediately hand over the custody of the minors to the surviving parent without filing any execution application before the trail Court.

21. That for the purposes of the jurisdiction of the welfare of the minors this Honorable Court shall have jurisdiction to look into the affairs of the minors and the Petitioner and the Respondent No. 2 shall not remove the minors from the jurisdiction of this Honorable Court without consent of the other parent.”

2. Without prejudice to the merits of the case, this visitation schedule shall continue until further adjudication and parties shall be bound by this visitation proposal, as judicial order of this court.

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