

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

CP No.S-466 of 2026

Petitioner: Mst. Tania Javed through Mr. Muhammad Jameel Ahmed, Advocate.

Respondents No.1to5: Province of Sindh and others through Mr. Allah Bahcayo Soomro, Additional Advocate General Sindh and Ms. Rameshan Oad, Deputy Prosecutor General, Sindh along with SIP Faheem Hussain on behalf of DIGP Hyderabad Range and SIP Mubarak Panhwar PS Gulstan-e-Johar, Karachi.

Respondent No.6: Mansoor Ali through Mr. Zarab Hyder Memon, Advocate, who files his Vakalatnama today, taken on record.

Date of hearing: 21.09.2026.

Date of decision: 21.09.2026.

ORDER

ZULFIQAR ALI SANGI, J: - The petitioner, who is mother of two minor children, namely Harmain, aged about 4 years, and Zain Abbas, aged about 3 years, has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, alleging that the minors have been retained by Respondent No.6, Mansoor Ali, their father and that she has been deprived of their custody and access. The petitioner stated that matrimonial differences arose between the parties and that, in November 2025, she was turned out of the matrimonial home, where after the minors remained with Respondent No.6. She has alleged that their continued retention is unlawful and has sought production of the minors before this Court and their custody be handed over to her. Hence, she prayed as under:-

- A.** *That, issue an appropriate order or direct Detainer and all concerned persons to produce the minor children, namely Harmain and Zain Abbas before this Honourable Court forthwith and same may be handed over to petitioner.*
- B.** *That, direct the concerned police authorities to assist in securing the production and safe recovery of the minor children from the custody of Detainer.*

- C.** *That, this honorable court declare that the mother/Petitioner is natural guardian and mother thereafter under the law of Hizanat She is entitled to retain the custody of minors.*
- D.** *That, grant any other relief which this Honourable Court and equitable in the may deem just, proper circumstances of the case.*

2. Comments have been submitted by Respondent No.5/SHO, Police Station Gulistan-e-Johar, Karachi, taken on record. Today, Respondent No.6, Mansoor Ali, has appeared before the Court along with the alleged detainees/minors, namely Harmain and Zain Abbas.

3. Heard and examined the material available on record.

4. The controversy essentially relates to the custody of the minor children between their parents. Respondent No.6 is admittedly the father of the minors and his keeping the minors in his custody, in the absence of any order of a competent Court declaring such custody unlawful, cannot by itself be termed as illegal detention so as to warrant exercise of constitutional jurisdiction for handing over custody to the petitioner. The question as to which parent is entitled to the custody of the minors, particularly having regard to their welfare, upbringing, age and other relevant circumstances, is a matter which may appropriately be examined by the competent Family Court. The petitioner may, therefore, approach the competent Court for seeking custody of the minors, whereupon the matter may be decided in accordance with law, after recording evidence etc. and keeping in view the welfare and best interest of the minors.

5. In view of the above, the custody of the minors with Respondent No.6, Mansoor Ali, being their father, cannot presently be termed as illegal custody merely on the basis of the allegations raised in the instant constitutional petition. Consequently, instant petition is **dismissed**. However, the petitioner is at liberty to avail the appropriate remedy before the competent Court of law for determination of custody in accordance with law.

JUDGE