

IN THE HIGH COURT OF SINDH, KARACHI
CP No.S-1216 of 2019

Date	Order with Signature of Judge
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Petitioner No.1 : Mrs. Ghulam Kubra,
Petitioner No.2 : Muhammad Rafiq,

Through Mr. Muhammad Akram,
Advocate

Versus

Respondent No.1: Babar Ali Ghouri (Nemo).

Respondent No.2: IIIrd District Judge, South Karachi.

Ghulam Hussain Minor

Date of hearing : 24.02.2020

Decided on : 24.02.2020

J U D G M E N T

NAZAR AKBAR, J-- The petitioner through this constitution petition has challenged concurrent findings in G&W Application **No.1576/2018** by order dated **19.1.2019** by the Family Judge South, Karachi, which was upheld by judgment dated **07.10.2019** in G&W Appeal **No.47/2019** by the learned IIIrd Addl. District Judge South, Karachi. The parties contested the G&W case before the Court and Respondent No.1 filed an application under **Order VII Rule 11 CPC**. The trial Court keeping in view the circumstances of the parties disposed of the Guardian and Ward Application **No.1576/2018** in the following terms:-

“there is dispute over parentage of minor which should be decided first before stepping down into any other issue. Therefore, I am in

humble view that present G&W application U/s.25 for permanent custody of minor is not maintainable, until the parentage of minor is not decided. I hereby dismiss the present G&W application as not maintainable. Further all pending applications including application for conducting the DNA test of minor are also disposed off. However, applicants are at liberty to approach the proper forum to seek their remedy”.

2. The appeal against the said order was preferred by the petitioner, the appellate Court dismissed the appeal filed by the petitioner and upheld the judgment by order dated **07.10.2019** of the trial Court in the following terms:-

“Keeping in view the above mentioned controversy between the parties as well as dictum laid down by superior Court, I am of the view that learned trial Court has not at all erred while deciding the impugning order, which is hereby upheld the appeal stands dismissed”.

3. In appeal learned Appellate Court again examined the facts of the case and upheld the judgment.

4. I have heard learned counsel for the petitioner and perused the record.

5. Learned counsel for the petitioner has assailed both the orders but unfortunately he has not identified any illegality and irregularity in coming to the conclusion by both the Courts below, not a single sentence from either side has been referred to by the learned counsel to assert that the two judgments suffer from any illegality and irregularity.

6. It is settled law that constitution petition does not lie against concurrent findings of facts and particularly when the remedy is available to the petitioner. The trial Court has only observed that the petitioner is directed to approach the proper forum to seek remedy, therefore, this petition is dismissed with no order as to cost.

JUDGE

SM