

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CP No.S-180 of 2020

Date	Order with Signature of Judge
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| 1. | For order on CMA No.812/2020 |
| 2. | For order on office objection as at 'A'. |
| 3. | for order on CMA No.813/2020 |
| 4. | For hearing of Main case |

04.02.2020

M/s. Muzamil Iqbal, & Shazia Latif, advocates for the petitioner.

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The petitioner through this constitutional petition has challenged the order dated **15.11.2019** passed by IXth Addl. District & Sessions Judge Karachi West (MCAC) in Family Appeal **No.46/2019** whereby order dated **08.05.2019** passed in G&W Application **No.1549/2017** was modified by the Appellate Court. The trial Court keeping in view the circumstances of the parties disposed of the G&W Application No.1549/2017 in the following terms:-

“a. On every alternate weekend minors may reside with applicant Muhammad Shahzad (father) i.e. applicant will pick up the minor from the house of the respondent on Friday at about 8:00 p.m. late evening and shall drop the minors at the house of the petitioner on Sunday by 01:00 p.m in the afternoon.

b. During summer vacations the custody of the minors to be handed over to the applicant on the 1st Sunday of the summer vacations so declared by the School/Government and shall be returned to the respondent in evening of the 4th Sunday during the vacation so that minors may have four weeks to spent with his father i.e. applicant.

c. Winter vacations which are generally due from 21st December to 30th December 1st week of the winter vacation shall be spent by the minor with applicant and 2nd week with the respondent.

d. In Eid-ul-Fitr the minors will celebrate Eid with his father applicant from Chand Raat of Eid-ul-Fitar at 08:00 p.m. till second day of Eid upto 08 p.m.

e. In Eid-ul-Adha the respondent will allow the minors to celebrate Eid-ul-Adha with father i.e. applicant who shall pick the minors from the residence of respondent on the second day of Eid-ul-Adha at 11:00 a.m in the morning of 3rd day of Eid-ul-Adha at 10:00 p.m. or earlier.

f. Unscheduled holidays the minors may spent alternate holidays with father/applicant from at 10.00 a.m to 08:00 p.m in the evening.

g. The applicant-father shall bear all expenses of the minors i.e. school fees, uniforms, van fees as well as others miscellaneous expenses as may be needed for the minors.

j. It may be observed that in case there is any family occasions in which the applicant/father desire and wish that his son may also attend shall inform the respondent who shall not unreasonably stop the minor from attending such family events and or functions.

k. It is needless to say that the minors are of such in impressionable age and both the parents appears to be sensible and conscious of their social responsibility shall not do any act that may prejudice their mind towards the other parents”.

2. In appeal learned Appellate Court again examined the facts of the case and the evidence and modified the judgment in the following terms:-

“In view of above discussion, the order required interfere by this Court. The order of the trial court is hereby modified. The

meeting of respondent is allow with the minor on every Saturday at 10:00 a.m. to 1:00 p.m and the respondent shall pay a sum of Rs.500/- to appellant as fear charges. On the occasions of Eid ur Fitar and Eid-ul-Azha the respondent shall take the custody of minor from the house of appellant at 08:00 a.m and shall return the custody of minor at 04:00 p.m on the same day. The respondent is directed to deposit the maintenance amount of minor regularly and in case of failure the learned trial Court can pass appropriate order. The appeal is modified with no order as to cost”.

3. Learned counsel for the petitioner has assailed the order of the appellate Court but unfortunately he has not identified any misreading and non-reading of evidence in coming to the conclusion by Courts below, not a single sentence from the evidence of either side has been referred to by the learned counsel to assert that the judgment suffers from any illegality on account of misreading of evidence.

4. I have gone through the file even on merit no case is made to invoke the constitutional jurisdiction in the finding of the trial Court, therefore, instant petition is dismissed alongwith listed applications.

JUDGE