

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CP No.S-186 of 2020

Date	Order with Signature of Judge
1.	For order on CMA No.885/2020 (U/A).
2.	For order on CMA No.838/2020 (Exemption)
3.	For hearing of Main case.
4.	For hearing of CMA No.839/2020 (Stay)

06.02.2020

Mr. Muneeruddin, advocate for petitioner.

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The petitioner through this constitution petition has challenged concurrent findings in G&W Application No.944/2015 by the XXXth Family Judge, East Karachi, which was maintained in Family Appeal No.83/2017 by the learned IXth Addl. District Judge East, Karachi. The parties contested the G&W case before the Court and led their evidence. The trial Court keeping in view the circumstances of the parties disposed of the Guardian and Ward Application in the following terms:-

“However, Minor Muhammad Baqar has crossed the age of Hizanat and being boy he need the masculine company of his father as well for grooming and training as men. The father shall have a right of visitation to the children. Visitation rights granted to father are being a father he will have a right to meet with the minors namely Muhammad Baqar aged about 08 years and Baby Fatima aged about 07 years twice in a month at meeting hall of District East subject to payment of fare charges of Rs.1000/- to the respondent. The respondent is strictly directed to produce the both minors for the purpose of meeting with the applicant in the meeting hall of District East without fail”.

2. In appeal learned Appellate Court again examined the facts of the case and the evidence and maintained the judgment.

“In view of the above discussion, the impugned order is hereby maintained and up-held to the extent of permanent custody of minors in favour of the respondent but visitation right of appellant is modified as appellant is allowed for special meetings with the minors on third day of both Eids from 12:00 to 05:00 pm, on the next day birthdays and result days of minors from 03:00 pm to 05:00 pm. Moreover, appellant is also entitle for the custody of minors for 15 (fifteen) days in summer vacations and 05 (five) days in winter vacations with the consent of both the parties, if parties do not agree on the period of meetings then learned trial Court is at liberty to pass the order at its own choice accordingly. Furthermore, minors are also allowed to attend the Majlis of Muharram in one time in the month of Muharram from 05:00 pm to 10:00 pm under intimation of learned trial Court. All above meetings would be held subject to furnish PR bond of Rs.5,00,000/- (Rupees Five Lacs) as well as original CNIC and passport (if any) to be submitted with Nazir of this Court and cost of Rs.2,000/- (Rupees Two Thousand) payable by appellant/father to the respondent. Head Bailiff or any Bailiff appointed by head bailiff will supervise handing over and taking of the custody of both minors, as one female and male family members of both sides will be accompanied with bailiff at the time of handing over and taking over the custody of the minors. However, regular schedule meetings with the minors namely Muhammad Baqar and Baby Fatima will remain continue twice in a month at meeting hall of district East subject to payment of fare charges of Rs.1000/- (Rupees One Thousand) to the respondent accordingly. Moreover, learned trial Court is also at liberty that due to the grownup age of the minors regular meeting place can be changed with the consent of parties after taking all precautionary

measures. Hence the instant appeal is hereby disposed in above terms”.

3. Learned counsel for the petitioner has assailed both the orders but unfortunately she has not identified any misreading and non-reading of evidence in coming to the conclusion by both the Courts below, not a single sentence from the evidence of either side has been referred to by the learned counsel to assert that the two judgments suffer from any illegality on account of misreading of evidence. It is settled law that constitution petition does not lie against concurrent findings of facts and therefore, this petition is dismissed alongwith listed applications.

SM

JUDGE