

# HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

**C.P No.S-637 of 2021**

[Shrimati Mohini versus Mirchumal & Ors]

**Petitioner** : **Through Mr. Afzal Karim Virk advocate**  
**Respondent** : **Through Mr. Mazhar Ali Leghari advocate**  
**Date of hearing** : **15.09.2023**  
**Date of Order** : **15.09.2023**

## **ORDER**

**MAHMOOD A. KHAN J:-** This constitutional petition/matter has been filed by the petitioner being aggrieved with the order of learned trial Court as well as appellate Court in family proceedings initiated by the respondent No.1/father having filed an application under Section 7 and 25 of Guardians and Wards Act for the custody of the minor, which was disposed of by the learned Family Judge vide Order dated 31.05.2021 by regulating the custody of minor between them. The petitioner being aggrieved with the said regulatory order preferred appeal before learned appellate Court, but the same was dismissed and regulatory order was upheld vide Judgment dated 30.10.2021, hence she preferred this petition.

2. Learned counsel for the petitioner states that in respect of regulatory order the learned trial Court as well as appellate Court, on account of forthwith passing the same, failed to consider that evidence is required in this regard to vary the condition in the interest of the minor. That it has not been considered that the minor is of 28 months only and had the opportunity been provided to the petitioner and the facts would have been considered properly, it would have come up that when early custody of the minor was obtained by the father when the minor can become sick. That where the minor is of sensitive nature the father, not being capable to keep her properly, as such the minor is exposed to medical condition, which cannot be considered as betterment for a child.

3. Learned counsel for the respondent, however, supports the regulatory order and prayed for dismissal of this petition.

4. Heard the parties and record has also been perused. It is observed that at present only maintenance of Rs.3,300/- per month has been awarded, as such considering the economic condition presently prevailing faced by everyone for which no evidence is required and the parties not to be put to sat this ordeal the respondent was called upon to come-up with a reasonable amount of maintenance, to which the respondent came up with an offer of maintenance of Rs.4,000/- per month.

His counsel submits that salary of respondent is Rs.11,000/- only. He further submits that in rural areas salaries of about Rs.11,000/- are being paid to workers, which is very low. Undoubtedly this Court is well aware that difference in salaries is present between urban and rural areas, but claiming the same to the sum of Rs.11,000/- is beyond consensus. In said circumstances when the inflation every day is increasing, this Court with a sense of reasonability found the same fit and proper to enhance the maintenance from present Rs.3,300/- to Rs.5,000/- per month with the already considered increment per annum available in the orders of Family Courts. While considering the arguments advanced for the petitioner, the same were not found fit to vary the timings, however, on account of and in order to protect the sickness the regulatory order is varied and it is further ordered that in case child acquire any sickness, minor or major during the period when the custody is available to him, the respondent shall forthwith inform the petitioner and her family in this regard without fail, as to any such adversity and the family of the petitioner shall participate in the treatment thereof as may be required at the expenses of the respondent/father.

5. With forgiven observations, to be part of regulatory order present and with the said variance, this petition stands disposed of accordingly with no order as to cost.

**JUDGE**

Sajjad Ali Jessar