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ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA  
Cr. Misc. Appln. No.S-49 of 2013.

DATE OF  
HEARING

ORDER WITH SIGNATURE OF HON'BLE JUDGE

15.3.2013.

1. For orders on office objection.
2. For Katcha Peshi.

Mr. Faiz Muhammad Larik, advocate for the applicant.

Mr. Habibullah G. Ghouri, advocate for respondent No.5, who is also in attendance.

Mr. Asif Hussain Chandio, State Counsel, alongwith Insp. Ali Raza Shah, SHO PS Rehmatpur and PSI Akhtar Hussain Burdi on behalf of SSP, Larkana.

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This is a case which involves the detention of Baby Sawera, who is currently aged about 9/10 years. Brief facts of the case are that after dissolution of marriage between petitioner and his wife Mst. Samina, the child Baby Sawera started living with her mother, however, subsequently the mother got <sup>re</sup> married, who is a stranger to child Baby Sawera. On the last date of hearing it was contended by the learned Counsel and Mst. Muradan that the child Baby Sawera is living with her mother and step father. We have observed categorically that the step father being stranger cannot be said to living under "Shiriah" law and under one roof. A real father is the most appropriate person under these circumstances to have the custody of the child. Mr. Asif Ali Abdul Razak Soomro is appointed as amicus in this case as he was sitting in the Court and got conversant with the facts. Under these circumstances he considered it fit that in view of the fact that step father being under prohibited degree cannot live with this Baby Sawera, who would grow up in the coming year, who at the moment is aged about 9/10 years. Even Mr. Ghouri though reluctantly agreed to the suggestion of Mr. Asif, however, he submitted that the most appropriate forum for deciding these issues would be the Guardian and Wards Court. At the moment, we are concerned with the issue of living of step father with Baby Sawera and by the time the question of custody of Baby Sawera is resolved by the Guardian Court, it might be too late. We deem it appropriate to allow

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this petition and handover the custody of the child Baby Sawera to her real father Muhammad Naseer Jagirani. The grandmother, namely, Mst. Muradan and mother Mst. Samina, however, are at liberty to approach the Guardian and Wards Court for the redressal of their grievances and to claim the custody of minor Baby Sawera, if permissible under the law. The mother is allowed to have the visitation rights as long as no further orders by the Guardian Court in this regard are passed.

Mr. Ghouri submits that they would be filing Guardian application within 15 days, but till then the father may be directed to allow the mother and the grandmother to meet Baby Sawera. The father would be dropping the custody of the child in the Court premises at 8.00 a.m., before Additional Registrar and would collect through the Additional Registrar at 4.00 p.m., in the evening on the same day. The mother and maternal grandmother of Baby Sawera are not allowed to take the custody of the child at the house of her step father and that they should not allow the step father to have any kind of access for Baby Sawera. The Court is thankful for the assistance rendered by Mr. Asif Ali Abdul Razak Soomro.

  
JUDGE