

ORDER SHEET
THE HIGH COURT OF SINDH, AT KARACHI

C.P. No.S-478 of 2021

Arif Hussain Nomani

Versus

X-Additional District Judge Karachi East & another



Date Order with signature(s) of Judge(s)

1. For orders on CMA 2967/21
2. For orders on CMA 2968/21
3. For hearing of main case
4. For orders on CMA 2969/21

Dated: 02.06.2021

Mr. Qamar Riaz Virk for petitioner.

The trial Court has declined permanent custody of the minor to the respondent however allowed meeting once in a month which order was maintained by the appellate Court however the appellate Court has modified the judgment of the trial Court to the extent of the meeting.

Learned counsel for the petitioner has assailed the impugned judgment only to the extent of meeting of the minor with respondent on every Saturday on the strength of an agreement that had been executed by the parties earlier. However, when asked as to what is the legitimate ground to deny meeting of the respondent, being real mother of the minor, every week, he had no answer. In fact the permanent custody of the minor has been with petitioner in terms of the concurrent findings of two Courts below and in such a situation if the respondent meets her son every week, the petitioner should not have any objection. Petitioner has not disclosed any reason to avoid such meetings. Insofar as the agreement that was executed between the petitioner and respondent being parents of the minor is concerned, it cannot be a lawful agreement to impress the guardian court which has to decide the controversy independently under the law without personal choices of the parents. Had this not been the position, the matter could not have been contested by the parties in Court. It is also pertinent to mention here that the prime consideration for the Court in these kind of disputes had always been the welfare of the minor and in no way meeting of the minor with the mother once in a week would have an adverse effect on the minor's welfare.

In view of the above, no case for interference in the impugned judgment of the appellate Court has been made and consequently petition being misconceived is dismissed along with listed applications.

JUDGE