

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**C.P.No.S-703 of 2024**

<i>Date</i>	<i>Order with signature of Judge</i>
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- 1. For order on office objections
- 2. For hearing of main case

**26.06.2024**

Mr. Khushbakht Shah, advocate for petitioner  
Mr. Ahmed Masood, advocate for respondent No.2  
Ms. Amna Ansari, Addl. P.G.

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**MUHAMMAD IQBAL KALHORO J:** Minors namely Ismah aged 10 years and Ifrah aged 07 years have been produced by respondent No.2, the father. I have heard the parties. Learned counsel for petitioner submits that interim custody of the minors may be handed over to petitioner till pendency of an application u/s 25 of Guardian & Wards Act before Family Court- XXIX, Karachi East. On the other hand, learned counsel for respondent No.2 has submitted that custody of the minors is with the respondent as a result of an order passed on 01.12.2023 by learned Family Court/Guardian Court XXIX Karachi, East.

2. The record reflects that petitioner had filed an application u/s 25 of the Guardian & Wads Act which after full-fledged trial was dismissed by the learned Family Court on 1.12.2023 and she was given only visiting rights to meet the minors on every Saturday and Sunday from 12.00 pm to 5.00 pm. The petitioner challenged the said order before learned Additional District Judge-VI, Karachi East who vide judgment dated 31.05.2024 has set aside the order, and nonetheless, remanded the case back to the Family/Guardian Court for framing the issues properly and deciding the application afresh after hearing both the parties. Since the custody of the minors was with respondent No.2, it remained with him. Record also reflects that petitioner had filed an application u/s 491 Cr.P.C before learned Sessions judge, Karachi East bearing Cr. Misc. Appl. No.89/2023, for recovery of minors from respondent which too was dismissed.

3. While on the one hand, such litigation was going on between the parties, the petitioner filed an application u/s 11 and 13 of Sindh Domestic Violence (Prevention &Protection) Act 2013 against respondent before learned Civil Judge and J.M. XVII Karachi Central alleging that he was committing violence with the minors. When this application was dismissed vide order dated 02.05.2024, she filed a C.P.No.D-2438/2024 before this court, which too was dismissed by learned Divisional Bench of this court headed by Honourable Chief Justice vide order

dated 20.05.2024. It is observed therein that the petition is misconceived and not maintainable.

4. Today, when after hearing the parties I announced the petition as dismissed and started dictating the order in the court, the petitioner raised voice and started hurling bad words. Since it was break time, I chose to retire to my Chamber for passing the order. But before I could do it, learned counsel appearing for respondent after seeking permission saw me in my chamber in presence of my staff and stated that although the petition was announced dismissed and minors were produced by the father, who were in his custody. But the petitioner after quarreling with him has taken away the minors illegally from his custody.

5. Be that as it may, since the case history shows that over the custody of the minors, litigation is already pending before the competent court of law. And various applications of the petitioner seeking interim custody of the minors on the ground that minors have been illegally confined by the father have already been dismissed, no case for indulgence in constitutional jurisdiction is made out to handover interim custody of minors to the petitioner, hence this petition is dismissed. Since the petitioner is stated to have taken away the minors from the custody of father without there being any court order in her favour, her name as well as names of minors shall be placed on ECL and passport control list till decision of application u/s 25 of Guardian & Wards Act by learned Family/Guardian Court.

The petition is accordingly disposed of.

**JUDGE**

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