

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

CP No.S-678 of 2022

(Mohammad Faraaz Shaikh vs. Ms. Javeria Shahani & others)

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

Disposed of matter

1. For order on CMA No.10204/2024(U/A). Disposed of
2. For order on CMA No.10205/2024(u/s 151 CPC)

20.11.2024

Mr. Zorain Khan, advocate for petitioner
 Ms. Javeria Shahani, respondent No.1 in person

ORDER

Muhammad Iqbal Kalhoro, J: 1. This matter has been taken up on an urgent application of respondent No.1, who reportedly is green card holder. This petition was filed by her ex-husband (Mohammad Faraz Shaikh), seeking custody of minor, namely, Rohaan Faraz Shaikh, who was then living with respondent No.1. She had also filed a guardian & ward application before the Family Court, Malir, Karachi to seek his permanent custody, which was pending decision. This petition was filed on 01.08.2022 and was disposed of by an order on 25.01.2024 in terms of following paras;

“20. During course of hearing, learned counsel for the petitioner filed a statement in which the petitioner father undertook to withdraw the contempt application filed against the respondent mother in the U.S Court and upon his doing so the warrant issued against the respondent mother would become ineffective and that the respondent mother would have rights granted to her by the U.S. Courts. The statement and undertaking dated January 25, 2024 filed by the petitioner father is taken on record and the petitioner is directed to adhere to the same.

21. For the forementioned reasons and in the presence of concurrent edicts decided in favor of the Petitioner father, the respondent mother is directed to hand out custody of the Minor to the father or the concerned authorities acting on his behalf, so also the concerned authorities to afford all facilities to the father to take the child back to the United States pursuant to the order passed by this Court and the U.S Courts and in case the mother wishes to follow the suit appropriate facilities also to be provided to her as and when requested. The above CMA is decided in these terms.

2. In compliance of the said order, respondent No.1 handed over custody of minor to the petitioner, her ex-husband, on 2nd February, 2024 and he took the minor to USA. Since then the applicant / respondent No.1 has not seen her son and has applied for reactivation of her green card, which issue is pending in the USA Embassy. As per his undertaking, the petitioner was required to move a proper application before USA Courts for recalling warrants issued against respondent No.1/applicant over the issue of custody of her minor son.

Apparently, the petitioner did not fulfil his part of bargain and hence warrants against respondent No.1/applicant remained alive.

3. Applicant / respondent No.1 therefore has filed Misc. Application No.2920/2024 for implementation of the order. In the course of hearing of such application, it transpired that only one warrant issued by District Court North Carolina USA had been withdrawn against applicant/respondent No.1, however, as far as Federal Court's warrant was concerned, no document was produced showing that it had also been withdrawn.

4. In view of such fact, notice has been issued to the petitioner through Pakistan Embassy in USA at his address *viz.* 1030 Boxelder Lane Charlotte, North Carolina, NO.28262 USA to appear and explain his position.

5. Today, applicant/respondent No.1 has informed that even warrant issued by the Federal Court has been withdrawn, and hence, she has applied for reactivation for her green card but the USA Embassy has asked her to produce certificate showing that due to litigation pending in Pakistan Court, she could not travel to USA from May, 2022 to January, 2024. As the record reflects, this petition was filed on 01.08.2022 and since then applicant/respondent No.1 has been appearing in this case continuously and fighting litigation over custody of her minor son with petitioner. The Family Court where she had filed application under Guardian & Wards Act had passed an order restraining her from removing her minor son namely Rohaan Faraz Shaikh from the jurisdiction of Pakistan's Courts. Apparently, it is obvious that because of litigation pending before this Court as well as before the Family Court Malir, applicant could not travel to USA, as required. Let a copy of this order be produced before the officials of USA Embassy for a consideration of reactivation of her green card.

This application is accordingly disposed of.

J U D G E

Rafiq/PA