

IN THE HIGH COURT OF SINDH, KARACHI
Const. Petition No. 692 of 2022.

Petitioner	Ali Islam through Mr. Mohammad Ali Waris Lari, Advocate.
Respondent No.1	Mst. Mehreen Malik through M/s Rejesh Kumar Khagaija and Sandeep Kumar, Advocates.
Date of hearing	30.09.2026.
Date of order	30.09.2026.

ORDER

Muhammad Osman Ali Hadi-J.:- Learned counsel for the Petitioner submits that the Petitioner has challenged the Judgment dated 27.07.2022¹, whereby Respondent No. 1 was permitted custody of her minor son and was allowed to take the minor to the United Kingdom. Learned counsel for the Petitioner contends that, prior to the Impugned Judgment, an Order dated 21.11.2016 was passed by the learned XXIXth Family Judge, Karachi East, whereby the Respondent was not permitted to take the minor outside the country. Learned counsel submits that the said Order dated 21.11.2016 was not appealed against, and therefore, attained finality, in view of which the Impugned Judgment is void. He further submits that the Petitioner seeks appropriate directions to approach the relevant Court below for availing the available legal remedy.

Learned counsel for Respondent No. 1 has controverted the assertions of the Petitioner and submits that after the initial Order dated 21.11.2016, Respondent No. 1 filed a Guardianship Application No. 394 of 2019, which was allowed by the learned Trial Court vide Order dated 05.10.2021. Thereafter, Respondent No. 1 filed an application under Section 26 of the Guardians and Wards Act 1890, which was dismissed by the learned Trial Court vide Order dated 30.04.2022. Aggrieved thereof, Respondent No. 1 filed First Family Appeal No. 143 of 2022, whereby the Impugned Judgment was passed in her favour and she was permitted to take her minor son back to the United Kingdom, where she is working and residing. He submits that the Respondent followed the due course of law and legal procedure, pursuant to which the Impugned Judgment dated 27.07.2022 was passed, and that there is no infirmity in the said Judgment.

I have heard learned counsel for the Parties, with their assistance have gone through the record.

¹ Available at Page 129 of the Court File

The case of the Petitioner, as set out in the prayer clause, pertains to the Impugned Judgment dated 27.07.2022, whereby the minor child was permitted to be taken out of the jurisdiction of this Court by his mother, Respondent No. 1.

I confronted the learned counsel for the Petitioner to show what legal error exists in the Impugned Judgment? to which his response was simply that the same could not have been passed in view of the Order dated 21.11.2016 which was passed by the learned Trial Court, as there were certain legal complications which included the matter to be (allegedly) time barred. It was further contended on behalf of the Petitioner that the Order dated 21.11.2016 was in effect, since the same (as per counsel) was never set aside. However, a perusal of the Memo of Petition illustrates that it is only the Impugned Judgment dated 27.07.2022 which has been challenged through the instant Constitutional Petition and no other Order. However, the Petitioner has failed to demonstrate any violation of fundamental rights and / or any other legal impediment in the matter. Even a perusal of the Memo of Petition, alongwith the arguments submitted by the Petitioner, do not disclose any plausible grounds warranting interference by this Court.

It is settled law that merely because a litigant is unhappy by an Order for which no further appeal lies, does not mean that the said Order is an amenable ground for invoking the Constitutional Jurisdiction of this Court.

Accordingly, since no ground for interference has been established, this Petition stands dismissed.

JUDGE

Shabir/PS.