

**RE S (WARDSHIP: STRANDED SPOUSES)**  
**[2010] EWHC 1669 (Fam)**

Family Division

Hogg J

25 June 2010

*Wardship – Separation of parent and child – Forcible removal of parent from jurisdiction – Parent no right to return – Impact on child – Immigration considerations when a parent without right to return to jurisdiction engaged in proceedings concerning welfare of child*

The father was a British citizen of Pakistani origin. The mother was a Pakistani citizen, who came to the UK to live with the paternal family following an arranged marriage to the father; she did not speak English. The mother alleged that the paternal family mistreated her while she lived with them, frequently beating her and requiring her to work for them. When the child was less than 2 months old the mother travelled to Pakistan with the father and paternal grandfather; the child remained in the care of the paternal grandmother. On the mother's account this was a forcible removal, possible only because she had been drugged. Unlike the tickets of other family members, hers was a one-way ticket. In Pakistan the father left the mother at her family home, taking with him both her passport, which contained her spousal visa (with more than 6 months to run), and her Pakistani ID card. The father claimed that only when he arrived in Pakistan did he decide to divorce the mother, but that he did so by talaq before returning to the UK; no documentary evidence was produced. The father also claimed that he posted the mother's passport and ID card to the British High Commission in Islamabad; the Commission had no record of the documents having arrived. The Commission did have a record of a letter from the father, enclosing copies of both his and the mother's passports, explaining that he had decided to divorce the mother because she was planning to leave him after obtaining indefinite leave to stay in the UK, and was intending to live off benefits; he stated that she might contact the Commission claiming that her passport had been lost or stolen. The child was made a ward of the English court on the mother's ex parte application. The mother's right to be in the UK was dependent on her spousal visa; the mother had been refused a duplicate visa, although the original had not yet expired, and had also been refused any other document enabling her to enter the UK in order to participate in the proceedings; she, therefore, had to give her evidence by video-link. The issue at the hearing was whether there had been deliberate abandonment of the mother and a forcible separation of the mother and child.

**Held** – making findings of fact; giving leave to the mother's solicitors to send a copy of the judgment to the Secretary of State and the Minister of State responsible for the UK Border Agency, with a request that they consider the concerns expressed therein – the paternal family had had a deliberate intention to separate the child and mother. To separate a mother and child in this way was emotionally harmful to the child and remained so for as long as the child was deprived of the mother; it was abhorrent and unfeeling, selfish and cruel (see paras [59], [60]).

**Per curiam:** the court made an urgent plea to the immigration authorities to allow the mother to enter the country for the purposes, and the duration, of these proceedings; it also made a plea that there be some consideration as to what arrangements could be put in place to assist mothers to return to this country in similar cases, in which proceedings were being heard and hearings listed. Such hearings were best conducted with parents available in court to give clear instructions to their legal teams, and live evidence. The mother in this case would be hampered if she were unable to attend the welfare hearing in person. It was most unfortunate that she had not

been permitted to enter the country for this hearing; had she been allowed to do so the hearing would have been easier for all concerned, probably shorter, and certainly less expensive. If the only funding option for the mother's travel costs had been the Legal Services Commission, that would have been an appropriate and proper use of public funds (see paras [63]–[67]).

*Teertha Gupta* for the mother

*Gill Honeyman* for the child

*Nasra Butt* for the father

The grandparents appeared in person

**HOGG J:**

[1] This case before me concerns a little boy (S). He was born in this country in January 2010. He was premature, being born at about 32 weeks' gestation. His first 3 weeks of life were spent in hospital. He was brought home towards the end of January. Home was his paternal grandparents' in this country, where his parents had been living and his father continues to live. Currently, he is still at that home, being cared for by his father, grandparents and three aunts. His mother is in Pakistan, having travelled there on 8 March 2010 with the father and paternal grandparents and being stranded there when the father left her at her family home, taking her passport and Pakistani ID card before returning to this country, leaving Pakistan on 10 March.

[2] The mother alleges that she was deliberately abandoned and separated from her child, by the father and grandfather and that this had been planned before she left this jurisdiction. Both the father and grandfather deny any wrongdoing or any such plan or intention but the father accepts that, when he left the mother at her family home, he had possession of her passport and ID card and did not return them to her. The mother is very anxious to be reunited with her baby, who is still not yet 6 months' old.

[3] The little boy is a ward of this court and has been so since the mother's ex parte application on 31 March 2010, the order being made by Parker J. I have been hearing evidence relating to the circumstances of the separation of mother and son. This has not been a hearing relating to the welfare needs of the baby, but an investigation as to how he and the mother came to be separated. Was it, as she alleges, a deliberate, planned separation, or was it more spontaneous, as alleged by the father? Is she an abandoned, discarded wife by the father?

[4] The father is a British citizen of Pakistani origin. His parents came here some 30 years ago. He was born here, as were all his four sisters, who are younger than him. He is 29. His parents had been brought up in the same village in Pakistan. They are in fact first cousins through their maternal grandparents. Theirs was an arranged marriage which both assured me was consensual and has been satisfactory to each. They came here soon after their marriage.

[5] The grandfather is a taxi driver and speaks good English. The grandmother has played the traditional role of homemaker and carer of the children. She does not speak English and required the services of an interpreter throughout the hearing and gave evidence through an interpreter. The grandfather, described her as a good wife and in charge of the house and domestic arrangements. Apparently, while the father is out at work, the childcare of the little boy falls to the grandmother, who has the assistance of

the father's three adult, unmarried sisters, who remain living in the paternal home. Although the sisters were born and brought up here and speak English, they do not and have not sought work outside the home.

[6] The father has been in employment for most of his adult life. He was educated here and speaks fluent English. He works in a factory, on shifts.

[7] The mother is not yet 21. She was born in Pakistan in July 1989. She is a Pakistani citizen. Until she came here, following her marriage, she had never left Pakistan. She does not speak English. It may be she understands some English, and has been described as educated. She required an interpreter throughout the hearing and gave her evidence through an interpreter. But interpretation was not required to give words to her obvious emotional state and anguish at being separated from her baby. In translation, she said: 'I don't want anything from the paternal family. I just want my baby back.'

[8] The paternal family travelled to Pakistan in October 2007. It was intended to be an extended stay and lasted some 6 or 7 months. They had returned to their home village and, while there, resided in the grandfather's family home. A marriage had been arranged for the eldest daughter, with a cousin, and this took place in the early part of the stay. It was also hoped that a bride would be found for the father. The grandfather gave me details of how a bride was found and the deliberations which took place between the families. An agreement was reached. It was an arranged marriage to which both the mother and father consented. It took place on 14 February 2008, although the mother did not move to the father's home for a few days thereafter, as is customary.

[9] On reading the various statements, it was not apparent that the mother also came from the same village as the paternal family; nor that the two family homes were very close to each other. As the father told me, if he stood on the roof of his family home, he could see the roof of the mother's home. The proximity of the homes only became apparent when I asked the father whether he and the mother were related, which they are not, and how far distant were the two homes.

[10] Soon after the marriage, the paternal family, including the father, returned to this country. The father applied for a spousal visa for the mother. For this, he required considerable guidance and support from the grandfather. In due course, the visa was granted and the mother came to this country on 12 October 2008. Her visa was granted for a period just over 2 years, expiring on 25 December 2010.

[11] Sadly, the marriage has foundered. The mother has made allegations against the paternal family as to their treatment of her after she came to this country. The family has denied those allegations. The father told me he divorced the mother by talak before he left Pakistan and returned to England on 10 March. No documents confirming the divorce have yet been disclosed to the mother, her lawyers or this court.

[12] The mother alleged that, soon after her arrival in this country, the paternal grandmother and father's sisters started to treat her like a skivvy, 'like a slave'. She was required to do all the cleaning, cooking and laundry for the family. She was criticised and berated by the mother-in-law and sisters-in-law. On occasions, they beat her, and one sister-in-law in particular swore regularly at her. She said she was threatened by her in-laws that she would be sent back to Pakistan, and her son would be removed from her care and, if she

complained to the police or court about their treatment of her, she would be killed and this was said to her even when pregnant. She told me that, regularly, her husband beat her. Even when pregnant, he had pulled her hair and slapped her face. She said she was unable to use the telephone freely to call her family: if she spoke to them on the phone, she was always surrounded by, or within earshot of, members of the paternal family.

[13] Her brother, who lives in this country, visited her a few times and became aware she was unhappy within the marriage. He thought she was scared, and saw her crying, but she would not tell him why, other than on one occasion to complain that she was being treated like a servant. She accepted she did not tell him. At that stage, she wanted the marriage to work and did not feel she could complain openly.

[14] Both the paternal grandparents and father were asked about the mother's allegations. The grandmother denied all the allegations against her and her daughters. She said the mother was treated with respect. She was their only daughter-in-law and was treated like her daughters. The grandfather, who accepted he was out of the house for much of the time, said it was a happy household, he treated the mother like his daughters, he heard no complaint and saw no abusive or wrongful behaviour. He trusted his own wife as a manager of the household and could not accept that she would treat, or allow his daughters to treat, the mother badly. He did not believe that the mother was bullied or abused. He did not know or think she was unhappy.

[15] The father also denied ill-treating the mother. He did not know of any ill-treatment of her by his mother or his sisters. He said that he and the mother were happy enough, although, like other couples, they had their disagreements. He was delighted when his son was born.

[16] However, when the police spoke to him on 12 March, following his return to this country, he told them that:

'the marriage had been rocky for some time and that the trip to Pakistan was to attend a friend's wedding, the mother could see her family and that they would treat it as a holiday and try to get their marriage back on track.'

He said that, on arrival in Pakistan, the mother went 'off on one', and he decided that the marriage was over. He rang a local priest, asked for a divorce, signed some documents: he believed he was divorced.

[17] In his first affidavit to the court, he described the mother as being 'very demanding and unreasonable towards him' and often asked for a home of their own, away from his family, although he said she knew that they could not afford to move out. Thus, by 8 March, whatever the rights and wrongs of the mother's allegations against the mother-in-law and sisters-in-law, it is obvious that the marriage was at least in serious difficulties. Moreover, if it is true that, within a few hours of arriving in Pakistan, he decided upon a divorce and obtained a talak divorce, then it is obvious that, from his perspective, the marriage had been in grave difficulties and was effectively over. I say 'if it is true' because I have been shown no documents to confirm that there has been a divorce. The only evidence about this comes from the father and grandfather, who says he is repeating what the father told him in the early morning before they left Pakistan.

[18] It became known on 24 May that the mother's airline ticket for 8 March 2010 was a one-way ticket to Pakistan. It was purchased on 26 February 2010 from an agent. The payment was made in cash. It is not known who purchased the ticket. The ticket had not been an open ticket. It had not been subsequently changed after purchase, to a single ticket. It was a one-way ticket at point of purchase. This information was obtained direct from the airline concerned, following a request made by this court. The father's evidence about the mother's ticket is contrary to this, and, in itself, inconsistent.

[19] On 1 April 2010, the father gave sworn evidence to Baker J, during the course of which he said he had purchased his and his wife's ticket and that they were single tickets, not return tickets. In his first affidavit, dated 19 April, he accepted the mother travelled on the one-way ticket. It was not a return ticket. He said that, initially, he had booked and paid for two open return flight tickets. They were open in terms of the date of return but within a limited time frame. The mother, on learning this, said she did not feel such a ticket would be suitable for her as she was not sure when she wanted to return to the UK. In a later affidavit, he said she indicated she may stay for about 2 months, while he could stay for about 3 weeks. She asked him to change her ticket to a single flight ticket only, so when she was ready to come home, they agreed, he would organise a flight home for her. As a consequence, he told me he swapped her return ticket for a single ticket, obtained a refund of about £300 which they decided to use as spending money in Pakistan, but retained his open return ticket which he used on 10 March to facilitate his return. On his return, he lost or threw away his ticket stubs, so was unable to trace the original transactions with his agent. He exhibited a brief typed note purportedly coming from the travel agent confirming his account of the story. The note is not on headed notepaper and the writer was not called. His second affidavit and oral evidence to me largely repeated this evidence, notwithstanding the evidence from the airline.

[20] The mother told me that she would not have travelled without her baby. In her own affidavit, she said she was asked to go to Pakistan to attend a wedding of a friend of the father, but refused to go without her baby. A few days later, she heard from her father-in-law that someone had taken possession of his family land in Pakistan, and he, the father and she had to travel immediately to resolve the situation. She refused to go. The father-in-law, in his evidence, said that there was such a dispute and that is why he chose to travel with the father and mother.

[21] According to her affidavit, on 8 March at 5pm, she said a travel agent came to the home and told the father and father-in-law to pack and make ready to go. 'I refused to go to Pakistan because of my son'. Then the father gave her two sleeping pills which caused her to fall unconscious:

'I felt my son being placed into my arms for a few moments but, soon after, he was taken back. I felt myself being placed into a car. Due to the effects of the medication, I was unable to resist, I was unable to speak and my legs were buckling. I recall being taken on to a plane. During my journey from Islamabad to our home village, the father gave me two more sleeping pills and I fell unconscious. When I awoke, I was at the home of my parents, with my suitcase. It was night-time. My

father-in-law and the father forced me out of the car and drove off. They had my Pakistani passport and ID card and took these items with them. I was unable to stay awake that night.'

The next day, she realised that the father and father-in-law had forcibly separated her from her son and taken her passport to strand her in Pakistan.

[22] In her evidence to me, she said that her family took her to the local hospital late that night (9 March) because she was vomiting blood, and produced at court a copy medical certificate. The certificate purports to say, at 11pm on the 9th, she was admitted and was in a comatose coma grade 1; her vital signs were normal; she was detained under observation for 12 hours, when she appeared orientated. The doctor's impression was that she was under sedation. The father claims this document to be a forgery. It is unfortunate that it was produced very late in these proceedings, despite bearing the date of 10 March, and no investigations as to its status took place.

[23] The mother's oral account to me concerning the allegation of being drugged is at variance to that in her affidavit. She told me that she did not know about how or when the tickets were purchased and she did not know in advance that she was going to Pakistan, although the father had suggested they go for his friend's wedding. She told me that, on 8 March in the early morning, it may have been about 4.30am, the father told her they had to go to Pakistan and she was to pack. She was told by the father, grandmother and her sisters-in-law: 'You're not feeling well. Take these pills.' She was forced to take them and, thereafter, did not know what happened to her. She did not recall anything about the journey to Islamabad; she did not recall going to the English airport, the check-in and security procedures or the flight. At Islamabad, she said she was not feeling well. She asked the father where her son was. He replied that the son was there and the grandfather had him. She did not see either. The grandfather confirmed in his evidence that, on arrival at Islamabad airport, he left the parents to collect the baggage while he went to organise a taxi.

[24] The timing and circumstances of the allegation of drugging the mother has changed. It may be there was confusion in the mother's mind as to the time. However, the flight was an early evening one from the English airport, and the grandfather told me that, at about 5pm, someone from the travel agent arrived to take them to the airport. The mother's original account as to timing is more consistent with that of the grandfather.

[25] The mother could not recall the journey from the airport to her home. She could not recall a visit to the home of a friend of the father en route to their home, where, it is said, they were entertained for some 3 to 4 hours. She recalled reaching her parents' home at about 7pm:

'He [the father] threw me out at my parents' gate, with my belongings. I was not really conscious. I was vomiting blood. Was taken to hospital early the next morning. I came round and asked for my son and where he was. My parents said they did not know.'

[26] On 10 March at 2pm (British time), the police station local to the father's home received a complaint from the mother's brother in Pakistan to the effect that the mother had been abandoned in that country, that the father

had taken her passport and was currently on his way back to England. He said the mother believed she was drugged in the home in England before being taken to Pakistan and that her baby son had been left behind in England with the paternal grandmother and aunts, and the mother was concerned for him. As a result, the police visited the family home here to check on the child. They found him fit and well and there were no concerns for his wellbeing.

[27] It seems that the mother's brother, who lives here, and a cousin also spoke to the police on about 12 March. The account was different in that it is recorded that they thought the mother had travelled of her own free will to attend a friend's wedding but, once in Pakistan, the father left her without any ID documents before returning here. They suggested the mother was drugged but the details of the account were inconsistent with the earlier report.

[28] In his evidence to me, her brother said he had not known the mother's plans to travel, as he had not spoken to her for about 2 weeks before she left. He did not tell the police she had travelled of her own free will but confirmed he and his cousin had visited the police and reported that the mother had been abandoned without her passport in Pakistan by the father.

[29] The father, grandfather and grandmother all deny that the mother was drugged either here or in Pakistan. They each say she was aware of the plan to travel and that the little boy would remain behind with the grandmother and her sisters who would care for him. They each say the mother was looking forward to seeing her family and made preparations to go, including buying gifts for her family. They rely on a telephone call made, purportedly, on 27 February on a mobile telephone, by the mother, to her sister in Pakistan, during which the mother talked about gifts for the family members and that the little boy was staying behind. It is said that the mother recorded part of the call as an aide-memoire for what she needed to buy. A transcript has been produced of the recording. The mother denies making this call and asserts that it is a fake created by the father to bolster his case that she went of her own free will.

[30] I heard also from the father's best friend, who, at the time, was in Pakistan. He said he was not aware of the parents' plan to travel and was surprised to see them arrive at his home from the airport and on their way to their village. They had come to pay respect, as there had been a death in his family. The friend told me that the mother was happy, laughing, joking, looking forward to seeing her parents. She did not appear to be under the influence of drugs and thought she would stay for a couple of months, while the father would stay for about 3 weeks. He said they stayed for some 3 or 4 hours, had a meal and left about 3pm to continue their journey to their home, which would take about 3 hours.

[31] Reading the friend's affidavit and hearing his oral evidence, it would seem that the mother was in his presence throughout his visit. However, towards the end of his evidence and in answers to some questions from me, he admitted that, as is traditional, the men and woman separate into different rooms to talk and eat and he only saw the mother for a maximum 5 minutes at the door when she arrived, and left.

[32] I was left with the sense that the friend's evidence was not totally reliable and I treat it with caution. However, as it can be seen from a copy of the mother's ticket, her flight was due to arrive at Islamabad airport at 8.35 am and she says she arrived at her parents' home, in the dark, at about 7pm. The

direct route by car from Islamabad to the home village, I was told, was about 2 or 3 hours. The route alleged to the best friend's home was out of the way and they arrived, he says, about 11am, left after 3 or 4 hours, with a 2 to 4-hour drive ahead of them. I have looked at the routes and relationship of the various towns and villages in an atlas and I can see that the best friend's home was out of the way and not on a direct route to the family village.

[33] The mother does not deny the visit took place, she merely says she does not remember it, as she was drugged.

[34] There is a clear conflict between the mother, on one side, and the father and his family as to the circumstances in which she travelled to Pakistan and whether she travelled willingly. What is obvious is that, had she been so drugged to be unconscious at the English airport when she passed through security and boarding, her condition would have been noticed by the authorities and the airline staff. It is most unlikely that she would have been allowed to travel. Whether or not she had been tranquillised or sedated in some way so that, while conscious, she was rendered compliant and docile is another issue.

[35] On the father's own admission, when he left the mother in Pakistan, at her family home, he took with him her Pakistani passport and, in it, her spousal visa and her Pakistani ID card. His account of the parting differs from the mother's. To the police on 12 March he said that, on arrival in Pakistan, the mother went 'off on one', and he decided the marriage was over. He did not describe any visit to the mother's home or any difficulties he may have encountered there. He did not describe the visit to his best friend. On 1 April, in front of Baker J, he said, after the visit to his friend, they reached the mother's home at about 6.30 pm. It was dark. The grandfather had stopped to visit his parents' graves and they had gone on without him. He said they went to the mother's home, her family were all there, they sat down and, suddenly, there were questions and demands why he had not sent them money. To Baker J, he had said he loved his wife and was happy; liked her family; but suddenly, in the home, he realised all his wife wanted was leave to stay in the UK and she did not love him. 'It was a game all along. He panicked and ran from the house and ran and ran, caught a taxi and went to Lahore.'

[36] His account to me was more elaborate. Questions were asked of him by the maternal family, about money and why he had not bought a house for himself and the mother. He felt intimidated and feared for his safety. He left the house for a walk. He walked around for 20 minutes before returning to the house but, before entering, he heard raised voices and decided not to go back in. At that point, he concluded the marriage was over and his wife had only married him for financial reasons and to achieve permanent rights of residence in this country; that she did not love him. He left the home, he left the village and took a taxi to a nearby town. All he had with him was what he carried in his pockets: no money but he had his passport and return ticket, the mother's passport and ID card. Everything else, including money, was left in a suitcase in the mother's home.

[37] The grandfather, by this time, was sitting in a hotel in the nearby town. They found each other, using the taxi driver's mobile. The two men talked. They both say the grandfather suggested they should return to the mother's home but that the father insisted the marriage was over. They decided to travel to Lahore, some 4 hours' drive away. They reached Lahore at about 1am and



found somewhere to stay. They had two rooms. During the very early morning, the father was able to speak to a local priest, obtain a talak divorce, with the appropriate documentation being signed and witnessed, and returned to where they were staying and went to bed. Later that morning, while the grandfather slept, the father ascertained the address of the British High Commission in Islamabad and posted to that address the mother's passport and ID card and the documents relating to the talak divorce. On his return to where they were staying, he asked the grandfather to pay 1,000 rupees to the taxi driver.

[38] In his affidavit of 10 June, the father said the reason he sent the documents to the High Commission was because he had been told clearly by the immigration officer that if the marriage ever broke down during the life of the spousal visa, he should return the mother's passport immediately. To the police on 12 March, he said he had taken the mother's passport so she could not return because he believed she intends to overstay her visa, once she returns. He said he had posted the passport to the High Commission. To Baker J, he said he sent all the documents to the High Commission 'because it's not my property. It's no good me holding someone else's property. I've sent it back to them.' To me, he said he sent them, as he had been told to do so in the event the marriage fell into difficulties. The mother's solicitors have been in correspondence with the Foreign and Commonwealth office to see if the documents ever arrived at the High Commission. They have not. The passport, the ID and talak documents have not arrived there.

[39] On his return to this country, the father sent a letter to the High Commission. It is undated but was received on 19 March in Islamabad. He enclosed copies of his and the mother's passport and wrote:

'I married the mother in 2007 but, unfortunately, the marriage has not worked out. I recently overheard my wife's telephone conversation with her family. I believe she is planning on getting her indefinite stay in the UK, then leaving me and moving into her own home and claiming benefits. She has gone to Pakistan and I have now decided to divorce her. She may contact you to say her passport has been lost or stolen, because her visa expires on 25 December 2010.

If you require any further information, please contact me ...'

He gave the English home address. He gave no address for the mother. He did not refer to their baby son.

[40] Asked in court whether he had ever told the mother what he had done with her documents or that they were divorced, he replied he had not. When asked whether he could have sent the documents to the mother, he replied he could not because he did not know her address. At that stage in the evidence, it had not emerged that the family homes were in close proximity in the same village. The grandfather later tried to explain how difficult it is to post letters in rural Pakistan and, to do so, would have to be by means of sending a letter care of a shopkeeper in the main street. It became apparent to me that, with their local knowledge, even if the Pakistani postal system is not like ours, a letter or parcel could have been sent to the village and a message sent to the mother's family to collect it.

[41] This had been a long story. Throughout, it has been clear the mother is in Pakistan without her passport; that the father took her documents and effectively stranded her there with no easy way of returning to this country; her baby son, throughout, has been here and deprived of his mother's care. All the paternal witnesses agreed that she was a good mother, cared for her son, although the grandmother was available to give her advice and help.

[42] These proceedings were issued on 31 March 2010. There have been a number of hearings. It first came before me on 20 April, then on 27 April and, again, on 19 May, 28 May and 8 June for further directions. In the April hearings, I made it clear that the father had a continuing obligation to produce the mother's passport, if he still retained it. I invited the father and grandfather to fund the cost of the mother's return to this country. They declined the invitation and have continued to refuse to do so. I recognise they are not a wealthy family, but I pointed out, at each hearing, that the little boy, even now not yet 6 months' old, was being deprived of his mother's care and that this was emotionally abusive to their son or grandson. My words had no effect. I received a blanket refusal to assist. As it was, her brother, in this country, indicated that he and her family would fund her ticket and she could live with him at his home if she were able to return.

[43] I have considered with care the evidence of the parents and the grandparents and the father's best friend. I have already commented on the friend's evidence. I have come to the conclusion that no witness was entirely reliable.

[44] I have already considered the state of the marriage at the time of departure. It was more than rocky, given the father's alacrity to declare it over before he returned to this country. There must have been rows or angry words; there may have been some pushing, slapping and hair-pulling, as the mother alleged; not domestic violence of the worst kind, but still unacceptable bullying, and upsetting to the victim. The grandparents' evidence lacked credibility. They would have known all was not well. I felt they whitewashed what was going on in the home. I was not convinced by their evidence and, in this respect, preferred the evidence of the mother.

[45] I think and I find that there was an element of bullying of the mother within the family home. I find she was threatened by members of the family, in particular that she be sent back to Pakistan and be separated from her child; that she was expected to do the household chores. I do not accept she was treated like a daughter, as alleged. I do not accept it was a happy household, as suggested by the grandparents. It is a relatively small home and, although the grandfather is out a lot, he and the grandmother would have become aware of arguments between the parents and between the sisters-in-law and the mother. I accept the brother's evidence that he thought his sister was unhappy and, at times, scared, in addition to the bullying to which she was subjected. She was then, and still is, very young, vulnerable and in a strange country, unable to speak the language and entirely dependent upon the father and his family, living in their home far away from her own family.

[46] I also think that the mother missed her family in Pakistan. I accept that, at times, she was homesick, even though she was trying to make her marriage work. Certainly, by 26 February, there was a plan to visit Pakistan. Two tickets were purchased. The father's account of how two return tickets were purchased and then the mother's swapped for a single ticket is not

plausible, nor confirmed by the airline. There is no record of that swap and refund. It is at variance with the information from the airline, and I find he has lied in this respect.

[47] From her evidence, she was aware of a proposed trip, as she refused to travel because of her son. I am not satisfied that the recorded telephone call is a fake, as she alleges; equally, I am not satisfied it is genuine. It was not a good recording and Urdu was being spoken. I was unable to recognise the mother's voice. All I could say is that it was a female voice.

[48] She says she was drugged. I do not accept she was unconscious or physically incapable; had she been so, she would not have been allowed to travel. However, she could have been tranquilised enough to make her docile and compliant.

[49] She does not recall the visit to the best friend; that is not to say it did not happen. She and the father and grandfather accept they arrived at the home village in the early evening, after dark. They had arrived in the relatively early morning at Islamabad and the direct route, I am told, would not have taken all day. There must have been a stop-over somewhere.

[50] On balance, I find there was a visit to the friend, but not the one he wished me to believe of a happy, laughing, joking mother, over several hours. He did not see her for more than 5 minutes. He omitted this fact from the affidavit. The mother says the father gave her more pills on their arrival in Pakistan. Maybe she slept in the car or even in the friend's house and continued to sleep or remain dozy for a period which could have encompassed the visit.

[51] The key to the issues in this case lies in the father's behaviour after the mother was left at her family home. He has not told the truth about the state of the marriage before March. It was more than rocky; it was in grave difficulties. The grandparents were aware of this. After leaving the mother in her family home, the father left the village and, if he is to be believed, resisted his father's suggestion to return to talk things through with the mother's family, but obtained a divorce within hours during the night of the 9/10 March. He posted the mother's identity documents and talak divorce to the High Commission. He would have known that she could not travel without them and could not return to this country without them. He did not tell her, or try to tell her, she was divorced or where she might find her documents. He did not send them to her. The father claims the grandfather was unaware of what he was going to do and only learned afterwards. He and the grandfather left Pakistan in the afternoon of 10 March, arriving back early on 11 March. He missed his friend's wedding in Pakistan, which was due to take place a few days later. He wrote to the High Commission, on his return, making allegations against his wife and indicated he had decided to divorce her, not that he had already done so.

[52] I do not know where the mother's passport is. I do not know whether it was sent to the High Commission. It has not been received. I do not even know if the parents are divorced. However, the father's behaviour is clearly indicative of a husband who no longer wants to be with the wife. He knows that she has no long-term rights of residence in this country; that her time here was dependent upon her spousal visa. Had he accidentally kept her passport in his pocket, he could so easily have returned it to her personally or by messenger or post. He chose not to. He knew that, in not returning her

passport, he was stranding her in Pakistan. He compounded his actions when he wrote to the High Commission, on his return. He was deliberate in his actions and was fully aware of the consequences of those actions upon the mother.

[53] He left England with the mother at about 8pm, British time on 8 March. He returned with his father at about 9.30am, British time on 11 March. The speed of events, his sudden decision to end the marriage and divorce the mother, is astonishing unless there had been a deliberate plan to leave her behind.

[54] I find that, on the evidence, the marriage, from the father's perception, had failed and he wanted to separate from the mother, but, as a delighted and no doubt proud father, wanted to retain his son. He knew the mother was not entitled to live here as a separated woman. A plan was devised to take the mother to Pakistan, ensure she stayed there, whilst retaining the care of his son. He purchased the one-way ticket for her, but a return ticket for himself. Various attempts were made to inveigle the mother to travel with him willingly. She was reluctant to leave her baby. Her compliance was required and I find that, in some way, she was tranquilised sufficiently to ensure her docility.

[55] I do not accept that there was a row, as the father describes, at the mother's home. I find he dumped her there with her suitcase, as she says, and he drove off into the dark, knowingly taking her passport and ID card with him. I do not accept the grandfather suggested returning to the mother's home, but being overridden by the father. This was a grandfather who had found his son's bride, who had negotiated the marriage, as is customary within their family's culture, and had expended much time, money and effort in arranging the marriage and obtaining her visa. He is not a man who, having made those efforts, would be easily overridden by his son, who had encountered unexpected difficulties and unexpectedly announced the end of the marriage. If he was unaware and taken by surprise, he would have insisted on returning to the mother's family to discuss the difficulties and seek to effect a satisfactory resolution. He is an intelligent man, not easily overborne, and he is head of his family.

[56] I find the grandfather was fully aware that the marriage had failed and that he was deeply involved in a plan to take the mother back to Pakistan, leave her there stranded and separated from her baby.

[57] The mother has made out her case against the father and her parents-in-law that she was deliberately separated from her tiny baby, and abandoned in Pakistan.

[58] I also find that the grandmother was aware of, and involved in, a plan. After all, she was required to supervise the care of the baby and she clearly loves him.

[59] Had the family been less deliberate in their actions, they might well have assisted in financing the mother's flight back to this country. However, the family's determination not to assist the mother's return, notwithstanding my comments about the child's emotional needs to have his mother, is a clear indicator that there was a deliberate intention to separate the mother from the child. It is, and was, a chillingly callous way of behaving towards a young and new mother and towards a very young newborn baby.

[60] Sadly, this is not the first case where I have encountered allegations of deliberate separation of a child and mother by the paternal family. I know that other judges of this division have encountered similar cases and made similar findings as I have done in this judgment. To separate a mother and child in this way is emotionally harmful to the child and remains so for so long as the child is deprived of the mother. It is something which is abhorrent and unfeeling towards a child and mother. It is selfish and cruel by those who do it.

[61] On a different point, the mother is stranded in Pakistan. She was able to obtain a new Pakistani passport and, armed with it, she visited by appointment the British High Commission to Islamabad a few days before this hearing commenced, to obtain a duplicate copy of the spousal visa to enable her to fly to this country in time to give full instructions to her lawyer and for this hearing. Notwithstanding that the High Commission and Immigration authorities were aware of the mother's difficulties and of these proceedings, the date of the hearing and her urgent need to travel, she was not granted a duplicate visa or any document enabling her to enter this country. As a result, I heard her evidence by video-link, which in itself was a difficult link to maintain, and, to save costs, she heard the other witnesses and submissions by telephone-link.

[62] I mention the difficulties which had been encountered and the necessity to use the video and telephone-links to Pakistan simply because the additional costs of this hearing, which will be borne by the taxpayer, are significant. The mother's solicitors have calculated the increased costs incurred by the links as being not less than £2,600, which is likely to be borne by the Legal Services Commission. Part of the first day of this hearing was lost because the video-link did not work. Whilst we did our best to use the time constructively, it was not possible to use the lost time entirely and, thus, extra costs were wasted. These costs include my wasted time as the judge and that of counsel and solicitors, court staff and possibly even the interpreter's time. I am not going to try to quantify those costs; I am not sure it would be productive to do so. I merely mention the wastage and it is wastage from the public purse.

[63] Had the mother been allowed to enter the county in time for this hearing, as I and her legal team had hoped, the hearing would have been easier for all concerned, probably shorter and certainly less expensive. The cost of her ticket would have been in the region of £300. Her brother had said he would fund it. It would have been cheaper for the Legal Services Commission to have funded it than to face the additional costs of video and telephone-links. In my view, had it been the only way to fund her return, it would have been an appropriate and proper use of public funds.

[64] As I have said, this is not the first case of its kind which the courts have encountered. I doubt it will be the last. The Foreign and Commonwealth Office was aware of this case and date of hearing, as was the UK Border Agency staff and the British High Commission in Islamabad. It is most unfortunate that, notwithstanding that knowledge, the mother was refused a duplicate of her spousal visa or at least special leave to enter for the purposes of these proceedings.

[65] No doubt there will be a subsequent hearing when I or another judge will hear evidence and decide upon the welfare issues relating to the little boy,

318            Hogg J            Re S (Wardship)            (FD)            [2011] 1 FLR

namely where and with whom he shall live. He is a British citizen and he is, and has been, a ward of this court since 31 March 2010 and he shall remain a ward for the foreseeable future. His plight deserves a proper consideration of all the evidence before a fully informed decision as to his future welfare can be made by this court. Such hearings are best conducted with parents being available in court to give clear instructions to their respective legal teams, and live evidence. Video-links are valuable but are only second-best when hearing evidence. The mother, in my view, would be hampered if she were unable to attend the welfare hearing in person. Far be it for me to direct, or attempt to direct, the Secretary of State or Minister of State carrying the portfolio for the UK Border Agency as to how to manage their affairs or policies. I do not intend to do that.

[66] I do not know what the mother's long-term plans might be: whether she wishes to stay in this country to care for her son or to take him back to Pakistan permanently. She may make an application to become a permanent resident; she may not. I do not know. However, I anticipate that there will be investigations into the parents' circumstances and proposals for the long-term care of the little boy and future hearings in these proceedings. I can only make an urgent plea to the immigration authorities that this mother be allowed to enter this country for the purposes, and for the duration, of these proceedings.

[67] I make a further plea to the ministers concerned that there should be some consideration as to what arrangements can be put in place to assist mothers to return to this country where allegations similar to those made in this case and where proceedings are in being and hearings are listed.

[68] I give leave to the mother's solicitors to send a copy of this judgment to the Secretary of State and Minister of State responsible for the UK Border Agency, with a request that they consider my concerns and comments I have made.

[69] I shall send a copy of the judgment to the President of the Family Division to facilitate any liaison the Ministers may consider appropriate.

*Order accordingly.*

Solicitors: *Dawson Cornwell* for the mother  
*Cafcass* for the child  
*Switalskis* for the father

PHILIPPA JOHNSON  
*Law Reporter*