

W.P.No. 71055 of 2025

Vs. Judge Family Court, Lahore, etc.

Through this constitution petition, the petitioner (*who was defendant in the suit*) has called in question order passed by learned Judge Family Court, Lahore dated 19.11.2025 (**‘Impugned order’**), whereby his right to file written statement was closed.

2. Learned counsel for the petitioner states that sufficient opportunities were not provided to the petitioner to file written statement in the family suit filed by respondent Nos. 2 and 3 before hastily closing his right to file the same, which has caused prejudice to his right to defend the suit filed against him.

3. The operative portion of the impugned order is reproduced below:-

“Today the case was fixed for submission of written statement and payment of cost but neither written statement has been submitted

nor cost has been paid. Learned counsel for the defendant requested for an adjournment the same has vehemently been opposed by the learned counsel for the plaintiff. Sufficient time has been granted to the defendant for filing of written statement but the same has not been filed. Hence, right of defendant for submission of written statement is closed. Now to come up for personal appearance for the parties for pre-trial-reconciliation for 03.12.2025.”

4. Perusal of the record shows that Sakeena Bibi (respondent No. 2) and Jannat (minor, daughter of parties) as plaintiffs on 18.06.2025 filed a consolidated suit for dissolution of marriage, recovery of maintenance allowance, dowry articles and delivery expenses against the petitioner in the Family Court Lahore, in which the petitioner was proceeded against ex-parte as he did not appear on 14.07.2025 after service through Registered Post A.D, TCS and publication, and thereafter appeared in the court on 29.07.2025 and filed an application for setting aside ex-parte proceedings, which was contested by the respondents, where-after through order dated 15.10.2025, the same was allowed with the result that ex-parte proceedings against the petitioner were set-aside subject to costs of Rs. 1000/- and the matter was adjourned for 25.10.2025 for submission of written statement and payment of costs. On 25.10.2025, due to the previous outbreak of fire on 16.10.2025 in the LDA Building, where the court room is situated, the case was

adjourned for 19.11.2025 for proceedings as per previous order, on which date costs and written statement were not submitted by the petitioner resulting in closure of his right to file the same. The petitioner seeks another opportunity to file written statement by claiming that sufficient opportunity was not provided to the petitioner to do the needful before the right was hastily closed by stating that as per law the Family Court and this Court were competent to extend time for filing written statement.

5. In terms of sub-section (1) of Section 9 of the Family Courts Act, 1964, the petitioner is required to file written statement within 15-days of his appearance before the court, which time may be extended by the court if the petitioner shows sufficient cause that prevented him to file written statement within time. The said Section is reproduced below:-

“Section 9(1). On the date fixed under section 8, the defendant shall appear before the Family Court and file the written statement, a list of witnesses and gist of evidence, and in case the written statement is not filed on that date, the Family Court may, for any sufficient reasons which prevented the defendant from submitting the written statement, allow the defendant to submit the written statement and other documents on the next date which shall not exceed fifteen days from that date.”

6. Question of providing further time to the defendant to file written statement came up for consideration before this Court in case titled Sajawal versus Judge Family Court, District Multan and another

(2020 YLR 359), wherein right to file written statement was struck off on the ground that despite availing number of opportunities, petitioner had failed to file written statement within the statutory period. This Court set-aside the said order and provided opportunity to submit the same subject to costs while observing as under:-

“2. After hearing the learned counsel for the petitioner and perusing the file, it is straightaway observed that the respondent filed a suit for maintenance allowance and dower on 31.5.2018 in which the petitioner appeared on 15.9.2018 whereafter on 23.10.2018, 3.12.2018 and 5.1.2019 the petitioner was given opportunities to submit the written statement but he could not submit the same on account of unavoidable circumstances. Under section 9(1) read with section 9(5A) of the West Pakistan Family Courts Act, 1964, a period of 15 days is provided for the said purpose. However, if the petitioner could establish sufficient reasons which prevented him for filing the written statement, such time can be extended in the interest of justice. Learned counsel for the petitioner states that on two occasions the learned Presiding Officer was on leave and that he will file the written statement before the Family Court on the next date of hearing i.e. 5.4.2019 if so permitted by the Court against an appropriate cost.

3. In this view of the matter and keeping in view the valuable rights of the petitioner to defend himself before the Family Court and referring to Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973 (Right to Fair Trial) prescribing right to defend as a fundamental right, I allow this writ petition, set-aside the order dated 6.2.2019 passed by the Family Court and permit the petitioner to submit written statement on 5.4.2019 subject to payment of cost Rs.5000/- to the respondent on the said date.”

7. In the case in hand, the claim of the petitioner is that on the previous date fixed on 25.10.2025, the court was not working due to outbreak of fire in the LDA Building and so sufficient opportunities were not provided to the petitioner to file

written statement, which right was closed in a hasty manner. Admittedly, ex-parte proceedings previously initiated against the petitioner were set-aside on 15.10.2025 and matter was adjourned to 25.10.2025 for submission of written statement and payment of costs. However, on the adjourned date due to previous outbreak fire on 16.10.2025 in the building, where court is situated, the case was adjourned for 19.11.2025, when said right had been closed. Thus, practically, 19.11.2025 was the first date fixed for filing of written statement as on the previous date fixed on 25.10.2025, court work was not possible as per showing of the court order itself that case had been adjourned due to outbreak of fire in the building. The counsel for the petitioner on the said adjourned date made a request for adjournment to comply with the previous orders, which was declined and the right of the petitioner was closed, which appears to be *prima facie* done in a hasty manner and without appreciation of record and application of mind as the court did not point out in the said order that how many opportunities had been previously granted that were treated as sufficient time and opportunity by the court to proceed against the petitioner. It is pertinent to mention here that a notice was circulated by the office of the Senior Civil Judge, Lahore on 16.10.2025 directing the lawyers not to go towards the LDA Judicial Complex

Building of the Civil Courts as efforts were being made to extinguish the fire in the said building and due to the same the record of some of the courts had also been shifted for safe keeping. In this view of the matter, on the next date fixed for proceedings as per previous order, the decision to close the right to file written statement seems to have been passed in haste. Although in the case titled as Hanif Brothers versus Federation of Pakistan and others (1999 CLC 520 [Karachi]) it is laid down that mere expediency of a case could not always mean a hasty and hurried decision without application of judicious mind, yet the court where the said decision has been called in question is always competent to see whether the decision issued due to expediency has advanced the cause of justice or has resulted in prejudice to the rights of any party and for that purpose the court has always to keep in mind the two time tested principles that ‘Justice delayed is justice denied’ and ‘Justice hurried is justice buried’ and balance has to be kept between these two principles to avoid prejudice to any party. Reliance is placed on Syed Saeed Muhammad Shah and another versus The State (1993 SCMR 550). Hasty decisions that cause prejudice to a party are generally deprecated by courts as is evident from the principles laid down in judgments reported as Muhammad Shamim Siddiqui versus Mrs.

Kausar Aziz (1988 MLD 1613 [Karachi]) wherein hasty decision made without application of judicial mind was set-aside and the matter was remanded for re-trial. Reliance can also be placed on case reported as Sheikh Abdul Majeed versus Tayab Ali (1984 MLD 793 [Karachi]) wherein the court set-aside the decision by holding the same to be without lawful authority by observing that hasty proceedings taken without having regard to provisions of law or demand of justice are without jurisdiction. In the case of Habib Bank Limited versus Hazrat Hussain (2005 CLD 1541 Peshawar) the court held that impugned judgment and order was the result of hasty decision which was not only deficient in its contents, but also bad in Law and the Law favoured decision of cases on merits and not on mere technicalities, and interest of justice required the decision to be based on merits. The Supreme Court of Pakistan has deprecated hasty decision at any stage of the proceedings in case reported as Mst. Safia Bano and another versus Home Department Government of Punjab through Secretary and others (PLD 2021 SC 488).

8. In a previous case, where right of the petitioner to file written statement was closed (reported as Muhammad Waseem versus Rehana Kausar, etc. (2025 LHC 5566)) this Court extended the time to file

written statement where the defendant in a Family Suit could not file written statement within time due to incorrect advice of his counsel from mufassil.

9. In view of the above, as the impugned order *prima facie* appears to have been passed in a haste without consultation of record and is a non-speaking order resulting in prejudice to the right of the petitioner of fair trial provided under Article 10-A of the Constitution of Islamic Republic of Pakistan, 1973, hence, while dispensing with notice to the other side lest it may cause un-necessary expense to the other party and delay the matter, this Writ Petition is **allowed** and the petitioner is provided one opportunity to file written statement, for which purpose the petitioner shall appear along with attested copy of this order on the next date of hearing fixed before the learned trial court and the trial court shall receive the written statement submitted by the petitioner. This order shall not absolve the petitioner from making payment of costs previously imposed upon him by the Family Court for setting aside ex-parte proceedings against him. In case the petitioner does not appear before the learned trial court on the next date of hearing for submission of written statement, the trial court will be at liberty to proceed further with the matter in accordance with law. It is made clear that as the order has been passed in the absence of the respondents, if the

respondents are not satisfied with this arrangement, they may file an application for re-hearing the matter and decision of the same after hearing both the parties.

(Muzamil Akhtar Shabir)
Judge

Zeeshan Khan

Approved for reporting

Judge