

Form No: HCJD/C-121
ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No.2890 of 2021

Arshad Mehmood.
VS
Mst. Saima Bibi and 03 others.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
02.	17.08.2021	Mr. Sajjad Haider Malik, Advocate for the petitioner.

Through the instant petition, the petitioner has challenged order dated 26.01.2021, passed by learned Senior Civil Judge-II/Judge Family-Guardian Court, East-Islamabad, whereby application for enhancement of maintenance of minors filed by respondent No.1 was allowed.

2. Learned counsel for the petitioner, *inter-alia*, contends that judgment and decree regarding payment of maintenance was passed in the year 2006, wherein monthly maintenance @ Rs.5,000/- each minor was fixed. The petitioner is regularly paying the maintenance according to terms and conditions of judgment and decree dated 12.05.2006 passed by learned Family Court. Learned counsel further contends that respondents No.1 to 3 have filed execution petition and during execution proceedings, respondent No.1 has filed an application for

enhancement of maintenance, whereby vide impugned order, learned Executing Court has enhanced the maintenance of the minors which is Rs.5,000/- each per month, with 10 % annual increase w.e.f the date of filing of the suit i.e. 06.12.2005. Learned counsel further contends that it is mentioned in the impugned order that the petitioner was bound to pay the maintenance of the minor son at the rate of Rs.5,000/- per month till the age of 18 years and also to pay maintenance of minor daughter at the same rate till her marriage. The dates of birth of the minors i.e. 02.11.1999 and 02.11.2001, mentioned in the impugned judgment and decree passed by learned Court have been crossed and according to record even minors are not entitled to get maintenance from the petitioner as mentioned in the impugned order. Learned counsel further contends that the impugned order has been passed in violation of the law laid down by superior courts of the country. Learned counsel has placed reliance on case reported as **"2012 SCMR 671"**.

3. Points raised, need consideration.
Notice to the respondents.

4. Re-list on **02.09.2021**.

C.M. No.01 of 2021.

Notice. Meanwhile, operation of the impugned order dated 26.01.2021 is

suspended, however the petitioner will continue to pay the maintenance to the minors as per rates fixed in the judgment and decree dated 12.05.2006 till next date of hearing. Restraining order shall cease to exist and expire automatically, if not extended specifically on the next date of hearing.

C.M. No.02 of 2021.

Exemption sought for is allowed subject to all just and legal exception.

(TARIQ MEHMOOD JAHANGIRI)
JUDGE