

ISLAMABAD HIGH COURT, ISLAMABAD

NO. _____ IHC/Jude. Deptt.

(REVISED FORM OF BLUE SLIP)

Case No. mp 311 20013

Titled *Mr. Touseef Ahmed Vs Mrs. Fouzia Akram Etc*

(a) Judgment approved for reporting

✓
Yes / No

(b) Judgment any comment upon the Conduct of the
Judicial Officer for Quality of the impugned
judgment is Desired to be made.

Yes / No

(In case the answer is the affirmative Separate
confidential note may be Sent to the Registrar
drawing his Attention to the particular aspect).

Initial of the Judge.

NOTE

1. If the slip is used, the Reader must attach on top of first page of the judgment.
2. Reader may ask the Judge writing the judgment whether the judgment is to be approved for Reporting of any comment is to be made about the Judicial Officer/ quality of judgment.
3. This slip is only to be used when some action is to be taken.

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No. **311 of 2013**,
Tauseef Ahmad-VS-Fauzia Akram & Another

S. No. of order proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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07-02-20132: Mr. Karim Nawaz, Advocate for petitioner,
Mr. Anis-ud-Din Advocate for respondent:

ORDER
MUHAMMAD ANWAR KHAN KASI, J:

Through this constitutional petition, the petitioner Tauseef Ahmad [defendant in suit filed by respondent Fauzia Akram seeking decree for recovery of maintenance allowance, dower & dowry etc] has called in question, the order dated 12-12-2012, passed by learned Judge Family Court Islamabad [Miss Shalsta Khan Kundi], whereby right of the petitioner[defendant] to produce evidence was closed on the ground that on the date fixed i.e. 12.12.12 the case was fixed for production of documentary evidence by the petitioner [defendant], who failed to file the same despite the fact that it was last opportunity.

The main ground urged by the learned counsel inter-alia is that the order in question has been passed in haste by ignoring the fact that the case was not fixed for production of documentary evidence and that proceeding further with the case will cause irreparable loss to the petitioner.

Conversely, learned counsel for the respondent [plaintiff in main suit] opposed the petition by maintaining that aim & intention of the petitioner is just to prolong the proceedings of a suit which is a family suit and is to be decided on priority basis.



After giving due consideration to the submissions advanced by both the sides, I have also gone through the material appended with the petition i.e. the order sheets and I am of the view that it would be in the interest of justice if the petitioner [defendant] is given a final opportunity to adduce his version and it was for this reason that on the date preceding to the date of impugned order, petitioner [defendant] was afforded last opportunity to submit **reply to application for production of documents**. It means that the case was not fixed for the production of documentary evidence. However, I would also observe here that conduct of the petitioner also deserves some penalty as on many occasions none appeared on his behalf.

Apart from above, the spirit of the law is to impart justice, substantial in nature, which can only be done after hearing both the sides and following the principle of merits instead of technical knockout.

The law on the subject is very specific. It has been stated time & again that cases of the parties should be decided on merits. See: **Syeda Tahira Begum & another Vs. Syed Akram Ali & another [2003 SCMR 29]**.

Technicalities of law are always avoided and discouraged in order to do complete justice and to ensure that justice is not only done but also seen to have been done. Rules of procedure are enacted for fostering the ends of justice and preserving the rights rather than to stifle the dispensation of justice and unless they are insurmountable, ends of justice always outweigh the manner of practice and procedure. Ref: "**Muhammad Bashir & another Vs. Province of Punjab through Collector of District Gujrat and others [2003 SCMR 83]**", **Riaz Hussain and others Vs. Muhammad Akbar and others [2003 SCMR 181]**.



Justice at no cost and at no stage should be allowed to fall prey to procedural technicalities, which may be ignored if they tend to create hurdles in the way of justice. Ref: **Syed Sharif ul Hassan through LRs Vs. Hafiz Muhammad Amin and others [2012 SCMR 1258]**

In view of above, while setting aside the impugned order dated 12-12-2012, the learned Court, seized with the trial of Family Suit, is directed to afford the petitioner [defendant in main suit] an absolute last opportunity to adduce his version & to complete his evidence on one & the same date but that too subject to payment of costs of Rs. 2000/- as it is a family suit and is to be decided on priority basis in the light of **NJPMC** decisions. Both the learned counsel, present in Court, are directed to provide their full assistance to the learned Trial Court in completing the task. The learned Trial-Court is further directed to decide the suit within a period of one month from the receipt of this order under intimation to this Court through the Registrar.

The captioned writ-petition is disposed of in above terms leaving the parties to bear their own costs.

MUHAMMAD ANWAR KHAN KASI
JUDGE

M. Suhail
07-02-2013

APPROVED FOR REPORTING