

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT,**  
**ISLAMABAD**

**WRIT PETITION NO.4682 OF 2021.**

**MST. ANAM ABOOD AND ANOTHER.**

**Vs.**

**MUHAMMAD SALMOON ILYAS, AND OTHERS**

**Petitioners by : Mr. Hashim Azeem, Advocate.**

**Respondents by : M. Zafar-ul-Hassan, Advocate.**

**Date of Hearing : 29.07.2022.**

**SAMAN RAFAT IMTIAZ, J.:-** Through the instant writ petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (“**Constitutional Petition**”), the Petitioners have assailed the Judgment and Decree dated 22.10.2021 (“**Impugned Judgment and Decree II**”) passed by the learned Additional District Judge (MCAC)-West, Islamabad (“**Appellate Court**”), whereby Petitioner’s appeal against Judgment and Decree dated 29.06.2021 (“**Impugned Judgment and Decree I**”) passed by the learned Judge, Family Court, Islamabad-West (“**Trial Court**”) has been dismissed.

2. Brief facts as per the Memo of Petition are that the Petitioner No. 1 (Mst. Anam Abood) filed a Suit for Maintenance & Treatment Expenses against the Respondent No.1 before the learned Trial Court on 14.07.2017 and thereafter another suit was filed on 12.02.2019 for Recovery of Maintenance Allowance for the Petitioner No.2, Medical Expenses, and Iddat Expenses, Gold Ornaments, Execution of Transfer Deed of Vehicle & Rs.150,000/-.

3. Vide the Impugned consolidated Judgment and Decree I, the Petitioner No.1 was held entitled to receive Rs. 92,000/- for medical and delivery expenditures; maintenance at the rate of Rs. 8,000/- per month as Iddat expenses; and also for the return of possession of the vehicle in question. Whereas, the Petitioner No. 2 was held to entitled to receive maintenance allowance at the rate of Rs.5000/- per month with 10% annual increase since her birth i.e. 01.03.2018 to 30.06.2021 and to receive

maintenance allowance at the rate of Rs.7500/- per month with 10% annual increase from 01.07.2021 till her marriage or change of custody while remaining claim was turned down. The Petitioners being partially dissatisfied with the Impugned Judgment and Decree I filed appeal the before the learned Appellate Court which was dismissed vide Impugned Judgment and Decree II. Hence, the present petition.

4. The learned counsel for the Petitioners argued that the maintenance allowance for Petitioner No.2 from 01.07.2021 as provided by the learned Trial Court and upheld by the learned Appellate Court is no longer sufficient as the Petitioner No.2 is now school going and, therefore, her monthly expenses have substantially increased. With regard to Petitioner No.1 he submitted that the period of Iddat has not been calculated correctly. He further prayed on behalf of the Petitioner for modification of the Impugned Judgments and Decrees I & II.

5. On the other hand, the learned counsel for Respondent controverted the arguments of the learned counsel for the Petitioner and supported the Impugned Judgment and Decrees I & II as being in accordance with law and fully justified and passed after proper appreciation of facts and record.

6. I have heard the arguments and perused the record.

7. First and foremost, it must be borne in mind that a High Court in its writ jurisdiction does not substitute the concurrent findings of fact recorded by the Family Court and upheld by the Appellate Court with its own findings solely on the ground that another view was possible on the same evidence. In this regard the legislature has established Family Courts for expeditious disposal of family cases regarding family maintenance. Therefore, this Court cannot give an opinion regarding adequacy of maintenance allowance when the Courts below have reached a determination after due consideration of all the relevant factors.

8. A party approaching the High Court under Article 199 of the Constitution has to demonstrate that there is a gross misreading or non-reading of evidence or jurisdictional error or such legal infirmity that

has caused miscarriage of justice. However, the Petitioners have not pointed out any such illegality, defect or illegality in the Impugned Judgments.

9. As far as determination of the Iddat period is concerned, the learned counsel for the Petitioners conceded that no such ground or prayer has been made in the instant petition. The only issue raised in this regard is the quantum of maintenance for the Iddat period of the Petitioner No. 2. However, whether it is the determination of the Iddat period or sufficiency of the quantum of maintenance for such period, the learned counsel for the Petitioners could not point out any non-reading or misreading of evidence, illegality or jurisdictional defect in the concurrent findings of the lower courts. In the absence of such defects, the only issue that remains regarding sufficiency of quantum would be a factual one which cannot be adjudicated upon in the exercise of Constitutional jurisdiction.

10. As far as the Petitioner No. 2 is concerned, an alternate, adequate remedy is available in terms of enhancement of maintenance application which may be filed before the Family Court as held by the Honorable Supreme Court in the case of *Lt. Col. Nasir Malik Vs. Additional District Judge, Lahore*, 2016 SCMR 1821.

11. In view of the above, this Petition is accordingly **dismissed**.

**(SAMAN RAFAT/IMTIAZ)**  
**JUDGE**