

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

W.P No. 199 of 2022

Junaid Umer Muhammad Zubari Alvi

VS

Dr. Hafsa Muhammad Jamil Akhtar and others

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(1)	20.01.2022.	Ms. Rabia Saghar, Advocate for the Petitioner.

Through instant petition, the Petitioner has assailed Order dated 06.12.2021 passed by the learned Judge Family Court-West, Islamabad, whereby, interim maintenance allowance of Rs.15,000/- per month per child has been fixed for Respondents No.2 & 3 and Rs.12,000/- per month per child has been fixed for Respondent No. 4 & 5 each.

2. Facts, in brief, are that the Petitioner and the Respondent No.1 were married on 04.05.2002, vide Nikahnama registered on 11.06.2002. The parties were blessed with four children i.e., Respondents No. 2, 3, 4 & 5. Respondents No.1 to 5 filed suit for dissolution of marriage on the basis of khula and maintenance. On 06.12.2021, learned Judge, Family Court, partially decreed the suit to the extent of Khula and dissolved the marriage.

3. The learned Judge, Family Court, West-Islamabad, vide the Impugned Order fixed the interim monthly maintenance of Respondent No.2, 3, 4 & 5 as aforesaid to be paid before 14th of each calendar month. The Petitioner has assailed the order through instant petition.

4. Learned counsel for the Petitioner submitted that the learned Trial Court has not considered and appreciated the financial status of the Petitioner. It has been submitted that the Petitioner cannot afford to pay the interim maintenance fixed by the Court and as such has prayed for setting aside of the Impugned Order.

5. The Impugned Order has been passed in pursuance of Section 17-A of the West Pakistan Family Courts Act, 1964, where under the Family Court has the jurisdiction to pass interim order for maintenance at any stage of the proceedings in a suit for maintenance. The purpose behind the provision of interim maintenance is to ensure that during the pendency of the legal proceedings, the minors are not faced with financial challenges.

6. Section 14 (3) of the West Pakistan Family Courts Act, 1964, bars an appeal or revision against an interim order passed by a Family Court with the obvious purpose to avoid delays.

7. The Impugned Order is merely an interlocutory order. The maintenance fixed through such an order is only temporary. The quantum of maintenance may be modified after appraising the evidence produced at trial. An aggrieved party will have a right to agitate his grievance before the appellate Court when the interim order merges into a final order. Even otherwise, quantum of interim maintenance, being a factual dispute cannot be made a ground for invoking the Constitutional jurisdiction of this Court.

8. I am guided by the consistent view taken by different Honorable Benches of the Islamabad High Court, Islamabad in various matters including the reported cases of *Dr. Aqueel Waris versus Ibrahim Aqueel Waris, 2020 CLC 131*; [], *2018 CLC 506*; *Mashkooor Ahmed Khokhar versus The Family Judge (East), Islamabad, 2019 CLC 1635*; *Muhammad Touseeq Danial Bhatti versus Ayesha Naeem, 2021 MLD 337*; and *Aamir Munir Puri versus Mst. Saima Naeem, 2021 YLR 2166*, wherein it has been held that interlocutory orders by the Family Court cannot be assailed in Constitutional jurisdiction even though they may be harsh in some instances. The instant petition is, therefore, not maintainable.

9. Thus, in the light of above said discussion and keeping in view the above said observations by this Court in the aforementioned cases the Impugned Order dated 06.12.2021 passed by the learned Judge, Family Court, West-Islamabad, does not call for interference in writ jurisdiction. Consequently, this Writ Petition is hereby **dismissed in limine**.

(SAMAN RAFAT IMTIAZ)
JUDGE