

Form No: HCJD/C-121.

ORDER SHEET
ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT

Writ Petition No. 3541 of 2019

Rashid Mahmood.
Vs
Rasheeda and 2 others.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
------------------------------------	----------------------------------	--

**13.11.2019. Mr. Shafqat Abbas Tarar, Advocate for the
petitioner.**

The petitioner, in the instant petition, has assailed order dated 29.04.2019, whereby the interim maintenance was fixed by learned Family Judge as Rs. 20,000/- for the minor respondents.

2. The facts, in brief, are that respondents filed a suit for maintenance against the petitioner in which the interim maintenance was initially fixed as Rs. 4000/- per child on 10.02.2017; subsequently, respondent No.2 fixed the same as Rs. 20,000/- which has been assailed vide order dated 29.04.2019. Apparently the petitioner assailed order dated 29.04.2019 before the Appellate Court i.e. respondent No.3, which as per learned counsel for the petitioner was dismissed as withdrawn.

3. Learned counsel for the petitioner, inter alia, contended that interim maintenance has been re-fixed by the learned Trial Court without any justification or basis; that the

petitioner was not heard before the re-fixation; that the petitioner is paying Rs. 12000/- per month as ordered by the learned Trial Court.

4. Arguments advanced by the learned counsel for the petitioner have been heard and the documents placed on record examined with his able assistance.

5. It is trite law that a petition under Article 199 of the Constitution is not maintainable against an interim order unless the same is without jurisdiction or is patently illegal. Under section 17 of the Family Courts Act, 1964, the Family Court seized of the matter is empowered to fix the interim maintenance, which is adjusted at the time of final adjudication. The learned Trial Court has exercised the referred jurisdiction by re-fixation of the maintenance. Learned counsel for the petitioner failed to point out any illegality or jurisdictional error on part of the learned Trial Court.

6. For what has been stated above, the instant petition is without merit and is dismissed in *limine*.

(AAMER FAROOQ)
JUDGE

Shakeel Afzal