

Form No: HCJD/C-121.

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P No. 1044 of 2022

Nabeel Farooq

VS

Mst. Anum Hussain 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)	15.03.2022.	Mr. Arshad Anwar, Advocate for the Petitioner.

Through instant petition, the Petitioner has assailed Order dated 14.02.2022 (“*Impugned Order*”) passed by the learned Judge Family Court-East, Islamabad, whereby, present Petitioner has been directed to pay interim maintenance to Respondents No. 2 & 3 at the rate of Rs. 12,000/- per month each and to continue payment of monthly school fee of Respondent No. 2 at the rate of Rs. 23,720/- per month directly to concerned school and to submit its receipt before the learned Trial Court.

2. Facts, in brief, as per Memo of Petition, are that earlier, Respondent No. 1 filed a suit for dissolution of marriage and recovery of maintenance which was dismissed as withdrawn vide order dated 09.09.2017 upon the apology of the Petitioner to improve his attitude. Subsequently, however, according to the Petitioner, the Respondent No. 1 left the house of the Petitioner with mala fide intentions and once

again filed a suit for recovery of maintenance allowance.

3. The learned Judge, Family Court, East-Islamabad vide the Impugned Order fixed the interim monthly maintenance of Respondent No.2 & 3 as aforesaid to be paid before 14th of each calendar month along with monthly school fee of Respondent No. 2. The Petitioner has assailed the Impugned 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 and the Impugned Order has been passed on the basis of misreading and non-reading of the record/pleadings; that the Impugned order has been passed while relying on surmises and conjectures; that Respondent No. 1 is disobedient, hence not entitled for any maintenance 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; *Mashkoor 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 14.02.2022 passed by the learned Judge, Family Court, East-Islamabad, does not call for interference in writ jurisdiction. Consequently, this Writ Petition is hereby **dismissed in limine.**

(SAMAN RAFAT IMTIAZ)
JUDGE