

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

**WRIT PETITION NO. 2807 OF 2022**

**MADIHA SANDHU.**

**VS.**

**NAJAM US SAQIB AND ANOTHER.**

**Petitioner by                         :     Mr. Imran Feroz Malik, Advocate.**

**Respondents by                     :     Mr. Shahid Saleem, Advocate.**

**Date of Decision                   :     17.10.2022.**

**SAMAN RAFAT IMTIAZ, J.:-** Through the instant writ petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the Petitioner [Madiha Sandhu] has assailed the order dated 25.06.2022 (**“Impugned Order”**) passed by the learned Family Judge/Guardian Court, West-Islamabad, whereby the Petitioner’s application for appropriate orders regarding summoning the Bank Manager, Habib Bank Limited (H.B.L) along with Bank Statement of Respondent No. 1’s account and official of AGPR along with the record of Respondent No.1’s pensionary benefits has been dismissed.

2. The facts in brief as per the Memo of Petition are that the Petitioner filed a suit for Dissolution of Marriage on the basis of Khula and Recovery of Maintenance which is pending adjudication before the learned Family Judge/ Respondent No.2. The Respondent No.1 is a Grade-22 officer retired from Ministry of Foreign Affairs and allegedly a man of means who is paying interim maintenance to the tune of Rs. 30,000/- but the Petitioner is unable to cover the expenses within the maintenance fixed by the Court. On 27.04.2022 the Petitioner filed an application before the Respondent No.2 for calling the record i.e. bank account details etc. to verify the financial capability of the Respondent No.1 which was dismissed vide the Impugned Order.

3. The learned counsel for the Petitioner stated that the Petitioner admitted in his cross-examination that he maintained bank account and is receiving pensionary benefits in view of which no prejudice will be caused to the Respondent No.1 if the Petitioner’s application is allowed and the record sought for is called while on the other hand it is imperative to establish the financial capability of the Respondent No.1 as the welfare of the minor is involved. He

further submitted that reasons given in the Impugned Order are not tenable as the provisions of Civil Procedure Code (C.P.C.) and Qanun-e-Shahadat Order, 1984 do not apply to the proceedings of the Family Court and even otherwise the bank official and the official of the AGPR who will be reproducing the record will not be subjected to cross examination pursuant to Article 134 of the Qanun-e-Shahadat Order, 1984. The learned counsel in support of his contentions placed reliance on *Agha Ali Abdi Qizilbash versus Family Judge, Rawalpindi and another*, 2013 YLR 2086 / 2012 CLC 1984, *Mst. Anwar Bibi versus Muhammad Akram and others*, 2012 MLD 6144, *Malik Irfan Ahmed Gheba versus Zubi Irfan and others*, 2004 MLD 635 and *Mst. Yasmin versus Ghulam Hussain*, 2000 YLR 1905.

4. On the other hand, learned counsel for the Respondent No.1 argued that the Petitioner had every opportunity to submit evidence and prove her case, therefore, there is no reason to allow the Petitioner's application at this belated stage and that even otherwise the Respondent No.1 has already produced his pension slip in evidence which shows his monthly income and capacity to pay maintenance. The learned counsel in support of his contentions placed reliance on *Muhammad Yousaf Khan versus Ghulam Ahmed and others*, 2022 YLR 996, *Jannat Bibi versus Talay Bibi and others*, 2021 MLD 1395, *Ghulam Mustafa and others versus Additional District Judge and others*, 2018 CLC 1937, *Muhammad Anwar and others versus Mst. Ilyas Begum and others*, PLD 2013 SC 255, and *Muhammad Naeem Ahmed and others versus Mian Abdul Qayyum and others*, 1999 CLC 710.

5. In rebuttal the learned counsel for the Petitioner submitted that the Respondent No.1 also received lump sum amount at the time of retirement which will be reflected in his bank statement.

6. I have heard the learned counsel for the parties and have also perused the record including the Impugned Order.

7. It is a settled law that provisions of C.P.C. and Qanun-e-Shahadat Order, 1984 do not apply to the proceedings before the Family Court. Therefore, it has been held in a plethora of judgments that evidence may be allowed to be produced with permission of the Court if it is expedient in the interest of justice in family matters notwithstanding the fact that the application has been moved belatedly. In the instant matter, it is the rights and entitlement of the minor that are at stake for which purpose the Family Court can call for any record in order to ascertain

financial strength of the father under sub-section (4) of Section 17(A) of the West Pakistan Family Courts Act, 1964.

8. As the best interest of the child is of paramount consideration before the Family Court, I see no reason why the Petitioner's application should not be allowed if on the basis of the record produced the Family Court will be in a better position to determine the monthly maintenance that should be allowed for the minor. It is apparent from the contents of the Impugned Order that on such date evidence had been completed and final arguments had not commenced. Therefore, in my opinion the Petitioner's application was not late as the record keepers will not be subjected to cross-examination. On the other hand no prejudice has been shown to be caused to the Respondent No.1 if the said application is allowed. Having said that it is noted that no period has been specified in the Petitioner's application for which the bank record, etc. are to be summoned.

9. In view of the above the instant petition is **allowed** with the result that the Petitioner's application for appropriate orders regarding Bank Manager, Habib Bank Limited (H.B.L) along with Bank Statement of Petitioner's account and official of AGPR along with record of Petitioner's pensionary benefits stands allowed with direction to the learned Family Court to ascertain, after hearing the parties, the period for which such record is to be called.

(SAMAN RAFAAT/IMTIAZ)  
JUDGE

JUNAID