

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

W.P No. 693 of 2022

Beenish Iftikhar

VS

Civil Judge, etc

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(1)	28.02.2022.	Syed Waqas Pirzada, Advocate for the Petitioners.

Through instant petition, the Petitioner has assailed Order dated 04.02.2022 (*Impugned Order*) passed by the learned Judge Family/Guardian Court-West, Islamabad, whereby interim maintenance of Petitioner No. 2 has been fixed to be tune of Rs. 15000/- per month.

2. As per contents of the petition, Petitioner No.1 and the Respondent No.2 were married on 21.02.2019 and couple moved to Saudi Arabia. On 24.01.2020 Petitioner No. 1 moved back to Pakistan and on 01.03.2020 parties were blessed with a son i.e., Petitioner No. 2. On 02.09.2021 Petitioner No. 1 filed a suit for maintenance for herself and for the minor son.

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

4. Learned counsel for the Petitioners submitted that the impugned order is not tenable inasmuch as the interim maintenance fixed by the learned trial Court is not as much as the financial status of Respondent No.2; that Respondent No. 2 is highly qualified System Engineer, presently working at King Abdullah University, Saudi Arabia and drawing a handsome monthly salary; Petitioner No. 2 is the only son and financial status of both the parties requires enhancement in interim maintenance, hence the impugned order is liable to be set aside and monthly maintenance of Petitioner No. 2 is liable to be increased as prayed for in the suit for recovery of maintenance.

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. Admittedly, the order impugned in the instant petition is interim order and it is trite law that a petition under Article 199 of the Constitution against the interim order is not maintainable in

family matters. Reliance is placed on cases reported as “*Minhaaj Saqib and others Vs. Najam-us-Saqib and others*” (2018 CLC 506), and “*Mashkoor Ahmed Khokhar Vs. The Family Judge (East), Islamabad and others*” (2019 CLC 1635). 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 her grievance before the appellate Court when the interim order merges into a final order. Even otherwise, quantum of interim maintenance and Respondent’s financial status, being a factual dispute cannot be made a ground for invoking the Constitutional jurisdiction of this Court.

8. Different learned Single Benches of this Hon’ble Court in similar cases titled as *Dr. Aqueel Waris versus Ibrahim Aqueel Waris* (2020 CLC 131), *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*, have held that interlocutory orders of Family Court cannot be assailed in constitutional jurisdiction of the High court, even though they may be harsh in some instances. Hon’ble Lahore High Court, Lahore in judgment reported as *Munir Alam Vs. Civil Judge, Family Court, Lahore* (2009 CLC 442) also declined to interfere in the order fixing the interim maintenance by Judge, Family Court by observing

that interim order fixing maintenance temporarily which could be modified later being not a final order adversely affecting the petitioner.

9. Thus, in the light of above discussion and keeping in view the above said observations, the Impugned Order dated 04.02.2022 passed by the learned Judge Family Court, West-Islamabad, does not call for any interference in writ jurisdiction. Consequently, this Writ Petition is hereby **dismissed in limine.**

(SAMAN RAFAT IMTIAZ)
JUDGE

Sherazi