

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

Writ Petition No.4100 of 2020

Ms. Faiza Mir and 03 others.

VS

Additional District Judge-I, (East) Islamabad and 02 others.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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23.	01.03.2022	Mir Aurangzeb, Advocate for the petitioners. Mr. Muhammad Khan Nazar, Advocate / proxy counsel for respondent No.3.
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The instant writ petition has been filed by two minor daughters, one son and wife of respondent No.3 / Syed Tahir Bukhari, who is serving as Assistant / Reader in the Court of learned Senior Civil Judge, East-Islamabad, against judgment and decree dated 02.12.2020 passed by learned Additional District Judge-I, East-Islamabad and judgment and decree dated 05.10.2020, passed by learned Judge Family Court / Guardian Judge, Islamabad-East.

2. Suit for recovery of maintenance allowance filed by the petitioners was

decreed by the learned Judge Family Court / Guardian Judge, Islamabad-East, wherein petitioners No.2 to 4 / minors were held entitled to recover maintenance @ 10,000/- PKR per month each and petitioner No.1 / wife was held entitled for maintenance allowance @ Rs.8,000/- per month for her iddat period; both the parties filed appeals against impugned judgment and decree dated 05.10.2020, passed by learned Judge Family Court / Guardian Judge, Islamabad-East; learned Additional District Judge-I, East-Islamabad vide impugned judgment and decree dated 02.12.2020 dismissed the appeal filed by the petitioners for enhancing the maintenance allowance and appeal filed by respondent No.3 was allowed by reducing quantum of maintenance of the minors from Rs.10,000/- to Rs.7,000/- each.

3. The petitioners filed instant writ petition against both the decisions of learner lower courts with a prayer that amount of maintenance of the minors be modified and

enhanced at the rate of Rs.12,000/- per month for each minor.

4. Notice was issued to respondent No.3 on 14.01.2021; on 03.02.2021 learned counsel for respondent No.3 appeared and sought time to file power of attorney and submitted that maintenance of the minors as decided by the Court of learned Additional District Judge-I, East-Islamabad is being paid, whereas learned counsel for the petitioners has denied that respondent No.3 is not paying any maintenance, so respondent No.3 was directed to appear in person alongwith payment receipts before this Court. Notices were served upon him through Special Messenger; on 10.03.2021 neither respondent No.3 nor his counsel appeared, again notice was issued through learned District and Sessions Judge (West), Islamabad but despite the service of notice neither respondent No.3 nor his counsel tendered appearance, therefore, bailable warrants of arrest amounting to Rs.50,000/-

through S.H.O., Police Station Ramna, Islamabad were issued.

5. On 29.03.2021, S.H.O., Police Station Ramna, Islamabad submitted a report that service of bailable warrants has been effected upon respondent No.3, who has given surety / undertaking that he will appear in the Court on 29.03.2021 and in case of failure he will pay an amount of Rs.50,000/- as fine in the Government Treasury; again neither respondent No.3 nor his counsel appeared on 29.03.2021, despite repeated calls, so surety bond executed on bailable warrants by respondent No.3 was forfeited and show cause notice was issued that why amount should not be recovered from him under Section 514 Cr.P.C. for violation of undertaking on bailable warrants by not appearing in the Court on 29.03.2021 and again bailable warrants of arrest amounting to Rs.2,00,000/- with two sureties were issued and the case was adjourned for 13.04.2021.

6. On 13.04.2021, respondent No.3 appeared in person and sought time to engage a counsel, show cause notice was issued that why an amount of Rs.50,000/- should not be recovered from him under Section 514 Cr.P.C.; on 21.04.2021, learned counsel for respondent No.3 again sought time to file power of attorney as well as to submit reply of show cause notice (it is pertinent to mention here that on 03.02.2021 the same counsel appeared and sought time to file reply and prepare the brief).

7. On 27.04.2021, learned counsel for respondent No.3 submitted that reply of show cause notice under Section 514 Cr.P.C has been submitted, and stated that if account number is provided, respondent No.3 will deposit all the outstanding maintenance of the minors in the account before the next date of hearing, learned counsel for the petitioners has provided details of the account and learned counsel for respondent No.3 was directed to deposit

entire outstanding maintenance amount in favour of the minors before the next date of hearing.

8. On 19.05.2021, neither respondent No.3 nor his counsel appeared. In reply of show cause notice submitted in the Court, respondent No.3 undertook to appear in the Court on each and every date of hearing and sought pardon for his previous conduct but again on 19.05.2021, no one appeared on behalf of respondent No.3, again show cause notice for committing contempt of Court for willfully flouting and disregarding his undertaking in para No.07 of reply of show cause notice submitted in the Court on 26.04.2021 as well as undertaking of his counsel dated 27.04.2021 by not depositing the maintenance amount of the minors, was issued.

9. On 07.06.2021, learned counsel for respondent No.3 sought time of ten days to deposit the outstanding maintenance amount in the account of minors, he was

directed to do the needful and submit receipt of the amount deposited in the account of minors on the next date of hearing. In Criminal Misc. No.505 of 2021, the surety / undertaking given by respondent No.3 / Syed Tahir Bukhari on bailable warrants was forfeited and he was directed to deposit an amount of Rs.50,000/- as fine in the Government Treasury within a period of fifteen days and submit the deposit receipt in the Court before the next date of hearing and case was adjourned for 22.06.2021.

10. On 22.06.2021, learned counsel for respondent No.3 submitted that within one hour, outstanding amount of maintenance will be deposited in the account of minors and also submitted that an amount of Rs.50,000/- has been deposited as fine in the Government Treasury, he was directed to submit deposit receipts in the Court before the next date of hearing.

11. That on 01.07.2021, learned counsel for respondent No.3 did not appear, respondent No.3 appeared in person and

submitted that he has brought an amount of Rs.1,50,000/- as maintenance of the minors, learned counsel for the petitioners received the said maintenance amount, respondent No.3 was again directed to pay remaining maintenance to the minors before the next date of hearing positively. He was also given account number of the Government Treasury / Head of Accounts and was directed to deposit Rs.50,000/- as fine before the next date of hearing.

12. On 14.09.2021, neither learned counsel nor respondent No.3 appeared, learned proxy counsel for respondent No.3 was directed to pay all outstanding maintenance amount to the minors according to the order dated 02.12.2020, passed by learned Additional District Judge-I, East-Islamabad before the next date of hearing. On same date, respondent No.3 did not deposit an amount of Rs.50,000/- rather copy of challan of Rs.5,000/- was produced, he was directed to clarify the position on the next date of hearing.

13. That on 01.11.2021, learned counsel for respondent No.3 submitted that the daughter of respondent No.3 from his second wife is hospitalized and submitted that respondent No.3 is willing to pay the maintenance as per judgment dated 02.12.2020, passed by learned Additional District Judge-I, East-Islamabad at the rate of Rs.7,000/- per month for each minor, again respondent No.3 was directed to pay all the outstanding maintenance before the next date of hearing and otherwise he will face the contempt of Court proceedings.

14. On 23.11.2021, learned counsel on the instructions of respondent No.3 present in the Court submitted that within a period of thirty days all outstanding maintenance of the minors will be paid and receipt will be produced before the Court.

15. On 04.01.2022 neither respondent No.3 nor his counsel appeared and the case was adjourned for 07.01.2022.

16. Today neither respondent No.3 nor his counsel has tendered appearance,

there is no application for dispensation from personal appearance of respondent No.3, he has been directed time and again to deposit outstanding maintenance, respondent No.3 has given statements in the Court for depositing of outstanding maintenance as well as undertaking in para No.07 of reply of show cause notice that he will regularly appear in the Court in future in the instant writ petition but neither undertaking and reply of show cause notice has been complied with nor undertaking given in the Court for deposit of outstanding maintenance has been complied with. He has also not deposited an amount of Rs.50,000/- in the Government Treasury as directed by this Court vide order dated 07.06.2021, also made wrong / false statement in the Court on 22.06.2021 that he has deposited an amount of Rs.50,000/-, also violated order dated 01.07.2021 by not depositing the amount of Rs.50,000/- in the Government Treasury; separate proceedings have also been initiated against him in Criminal

Original No.131 of 2021 and Criminal Misc.
No.505 of 2021.

17. As respondent No.3 has violated his statements and commitments made in the Court and has shown no reason of his non-appearance today, let non-bailable warrants of arrest be issued against him through S.H.O., Ramna, Islamabad for producing him in the Court on 15.03.2022.

18. Case is adjourned for further proceedings on **15.03.2022**.

(TARIQ MEHMOOD JAHANGIRI)
JUDGE