

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

Writ Petition No.2694 of 2019

Raja Muhammad Ilyas Janjua.

Vs

The learned Judge Family Court, Islamabad and 04 others.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
02.	07.10.2019.	Syed Ghazanfar Ali Gillani and Mr. Sohail Saleem Awan, Advocates for the Petitioner. Raja Nisar-ul-Haq Abbasi, Advocate for respondents No.2 to 5.

Through the instant petition, the petitioner has assailed order dated 02.07.2019, whereby on the application of respondents No.2 to 5, the order for maintenance has been passed for payment of sum of Rs.4,000/- per month.

2. Learned counsel for the petitioner, *inter-alia*, contended that order for interim maintenance has been passed against respondents No.3 and 4, who are adults and the petitioner is not duty bound to maintain them; that no inquiry was conducted and the order suffers from error of law.

3. Learned counsel for respondents No.2 to 5, *inter-alia*, contended that the instant petition is not maintainable inasmuch as the order impugned is interim. It was also

contended that father is duty bound to maintain male son till the age of majority and female daughter, if she is dependent, however, there is an exception, which is that where the son suffers from any disability, the father has to maintain. Reliance was placed on cases reported as "*Ali Akbar Vs. Additional District Judge, Malkwal and others*" (**PLD 2017 Lahore 787**), "*Minhaaj Saqib and others Vs. Najam-us-Saqib and others*" (**2018 CLC 506**), "*Mashkoor Ahmed Khokhar Vs. The Family Judge (East), Islamabad and others*" (**2019 CLC 1635**), and "*Humayun Hassan Vs. Arslan Humayun and another*" (**PLD 2013 SC 557**).

4. Arguments advanced by learned counsel for the parties have been heard and record perused with their able assistance.

5. Admittedly, the order impugned in the instant petition is interim 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**).

Even otherwise, the impugned order does not suffer from any error of law or jurisdictional error inasmuch as respondent No.3 is allegedly disabled and respondent No.4 is not married, hence the petitioner is obligated to maintain them. Reliance is placed on cases reported as "*Humayun Hassan Vs. Arslan Humayun and another*" (**PLD 2013 SC 557**) and "*Ali Akbar Vs. Additional District Judge, Malkwal and others*" (**PLD 2017 Lahore 787**). Needless to observe that learned trial Court during course of trial shall, after parties have led evidence, decide the issue of eligibility of respondents No. 3 and 4 to receive maintenance for their father.

6. For the above reasons, the instant petition is without merit and is accordingly **dismissed**.

(AAMER FAROOQ)
JUDGE

M. ZaheerJanjua