

Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

W.P. No.1577/2020

Sajid Hussain Shah

Versus

Mst Shazia Rubab, etc.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
01	16-06-2020	Ch. Sher Afzal Khan Babar Gujjar, Advocate for petitioner.

Through this constitutional petition, Sajid Hussain Shah son of Qasim Hussain Shah (*hereinafter referred to as the 'Petitioner'*) has assailed concurrent findings rendered by two competent Courts vide judgments and decrees, dated 22-04-2019 and 17-02-2020, passed by the learned Judge Family Court, Islamabad (West) and the learned Additional District Judge, Islamabad (West), respectively.

2. The facts, in brief, are that the petitioner and Ms Shazia Rubab daughter of Ejaz Hussain Shah (*hereinafter referred to as the 'Respondent'*) entered into a marriage contract in 1994. They were blessed with three children, namely, Khadija Batool,

Haseeb Abbas and Aliiya Batool (*hereinafter referred to as 'Minors'*). The Petitioner was gainfully employed in the Kingdom of Saudi Arabia. The parties developed marital differences which led to divorce that took effect on 29-03-2016. Respondent filed a suit on 22-04-2015 seeking recovery of maintenance for herself and the minors. The learned Judge Family Court partially decreed the suit vide judgment and decree, dated 22-04-2019. The petitioner preferred an appeal and the same was dismissed by the learned Additional District Judge (West), Islamabad vide judgment and decree, dated 17-02-2020.

3. The learned counsel has been heard at length. He has argued that; both the learned courts failed to take the relevant matters into consideration; the concurrent findings suffer from misreading and non-reading; the Petitioner is facing financial problems and, therefore, he is not in the position to pay for the maintenance amount determined by the learned trial Court; the Petitioner has serious medical problems and,

therefore, which prevents him from being gainfully employed.

4. The learned counsel has been heard at length and the record has been perused with his able assistance.

5. It is an admitted position that the Petitioner and Respondent had entered into a marriage contract and out of which the Minors were born. The Petitioner is father of the Minors and his obligations towards them stands admitted. It is also not disputed that at the time when the suit was filed the Petitioner was gainfully employed. It appears from the record that the Petitioner despite being gainfully employed was reluctant to fulfill his obligations towards the Minors. Both the courts have concurrently recorded findings which have not been found to suffer from any legal infirmity let alone misreading and non-reading. The findings are reasonable and do not require interference while exercising jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

6. For the above reasons, the petition is devoid of merits and, therefore, accordingly dismissed in limine.

(CHIEF JUSTICE)

Luqman Khan/*