

**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

W.P.No.4068/2019  
Ammar Hussain Qazi  
**Versus**  
Mst. Maryam Nasir and 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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26.11.2019	Khawaja Manzoor Ahmed, Advocate for the petitioner
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Through the instant writ petition, the petitioner, Ammar Hussain Qazi, impugns the judgment and decree dated 15.10.2019 passed by the Court of the learned Additional District Judge, Islamabad, whereby his appeal against the order dated 04.05.2019 passed by the learned Judge Family Court was dismissed as not competent. Vide order dated 04.05.2019, the learned Family Court had struck off the petitioner's right of defence under Section 17-A of the West Pakistan Family Court Act, 1964 ("the 1964 Act").

2. Learned counsel for the petitioner candidly admitted that the suit for *"dissolution of marriage on the basis khula, recovery of maintenance allowances, delivery expenses"* filed by respondents No.1 and 2 against the petitioner is still pending adjudication before the learned Family Court.

3. Learned counsel for the petitioner submitted that the mandate of Section 17-A of the 1964 Act was that after striking off the defence of a party who does not comply with the order for payment of the interim maintenance, the suit is to be decreed on the basis of averments made in the plaint, whereas in the case at hand, the learned Family Court did not decree the suit; and that as regards the petitioner, the order dated 04.05.2019 passed by the learned Family Court was a final order for all intents and

purposes, and therefore the same was appealable. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein.

4. I have heard the contentions of the learned counsel for the petitioner and have perused the record with his able assistance.

5. Section 14(3) of the 1964 Act expressly bars a right of appeal or revision against an interim order passed by a Family Court. A party aggrieved by such an interim order has to wait until a Family Court passes a final order and then to challenge it in an appeal. This is because an interim order merges into the final verdict. The purpose behind barring an appeal or a revision against an interim order of the Family Court is to avoid delays in disposal of the cases by the Family Court. Since the suit instituted by respondents No.1 and 2 is for dissolution of marriage, recovery of maintenance, etc., the final decree that may be passed by the learned Judge Family Court would be appealable under Section 14 of the 1964 Act. In such an appeal, the petitioner can also challenge the interim order dated 04.05.2019 passed by the learned Family Court. In the case of Syed Saghir Ahmad Naqvi Vs. Province of Sindh (1996 SCMR 1165), it has been *inter alia* that a party affected by an interim order passed by a Family Court has to wait till it matures into a final order and then to attack it in the proper exclusive forum created for the purpose of examining such orders.

6. Since the order passed by the Family Court was an interim order, the learned Appellate Court was correct in dismissing the petitioner's appeal against the said order as not competent. The order dated 04.05.2019 was clearly interlocutory in nature

and did not dispose of the entire case before the Family Court. The concurrent orders/judgments passed by the learned Courts below are neither without jurisdiction nor *malafide*, void or *coram-non judice* so as to warrant interference in the Constitutional jurisdiction of this Court under Article 199 of the Constitution.

7. Since I do not find the pre-requisites for interference in the Constitutional jurisdiction of this Court with the impugned judgment dated 15.10.2019 to be satisfied in the case at hand, the instant writ petition is dismissed in limine. The petitioner will be at liberty to challenge the order dated 04.05.2019 passed by the learned Family Court in an appeal against the final order/judgment passed by the learned Judge Family Court, if the occasion arises for doing so. There shall be no order as to costs.

Qamar Khan\*

**(MIANGUL HASSAN AURANGZEB)**  
**JUDGE**