

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

Writ Petition No. 2774/2020
Ziafat Mehmood Abbasi
Versus
Sabiqa Sonia, etc.

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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30.09.2020 Mr. Majid Ali, Advocate.

Through the instant writ petition, petitioner impugns order dated 15.09.2020 passed by the learned Judge Family Court, Islamabad-East whereby application of the petitioner/defendant for reduction of interim maintenance allowance was dismissed.

2. Relevant facts are that the respondents 1 to 3 filed a suit for the recovery of maintenance allowance against the petitioner, wherein interim maintenance at the rate of Rs.10,000/- per month for each minor was fixed; the petitioner had been working abroad in UAE and on his arrival back to the country, filed an application for reduction of the interim maintenance with the stance that due to Covid-19 pandemic he became jobless, therefore, the amount fixed as interim maintenance may be reduced. The learned Guardian Judge dismissed the said application vide order dated 15.09.2020, hence the instant writ petition.

3. Learned counsel contends that the petitioner had been paying the interim maintenance as directed by the learned Guardian Judge but due to pandemic of Covid-19, he became jobless and, therefore, unable to pay the same being not in consonance with his financial position while the respondent No.1 is a working lady and being real

mother may help in maintaining the minors. Learned counsel placed reliance upon case laws reported as 2017 MLD 214 and 2014 CLC 715.

4. Heard, record perused.

5. Record reveals that interim maintenance allowance of the two minors was fixed at the rate of Rs.10,000/- per month each in September, 2019 and the petitioner paid the same for initial six months till February 2020 and thereafter came-up with the application for reduction of the interim maintenance after six months. It is manifest from the record that he requested for waiver of interim maintenance for a period of six months. During the said period, the petitioner did not pay even Rs.5000/- per month as he prayed through the instant writ petition in terms of maintenance to the minors to show his readiness and left the minors unattended in those hard days which cannot be considered as an excuse to absolve him from his duty. It is settled principle that it is the bounden duty of the father to maintain his children irrespective of the fact that they are residing with their mother.

6. The learned Family Court has already dealt the petitioner with leniency by making three instalments of the outstanding amount of maintenance.

7. The dispute between the parties is in respect of maintenance which is a schedule item as per Family Court Act, 1964. Being a special law, remedy of an appeal against the interim order has been excluded from the statute by the legislature. When remedy to challenge an interim order is not provided through statutory provision, then it does not amount that by way of filing writ petition against

an interim order, same remedy could be availed. At this score alone, the instant writ petition is not proceedable.

8. The case law relied upon by the learned counsel do not extend any help to the petitioner due to having distinct facts and circumstances.

9. In view of above, there exists no justification to interfere in the impugned order. Consequently, the instant writ petition is dismissed in limine.

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE

Imran