

**JUDGMENT SHEET.**

**IN THE ISLAMABAD HIGH COURT,**  
**ISLAMABAD.**

**Writ Petition No.4039 of 2019**

Usman Bashir.

**Versus**

Dr. Sadia Rasheed Khan and 04 others.

Petitioners By : Ms. Shabnam Nawaz, Advocate.

Respondents By : Mr. Muhammad Kowkab Iqbal, Advocate.

Date of Decision : 16.01.2020

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**AAMER FAROOQ, J. -** Through the instant petition, the petitioner has challenged order dated 29.10.2019, whereby the learned Trial Court fixed the interim maintenance as Rs.25,000/- per minor per month.

2. The facts, in brief, are that respondents No.1 to 3 filed a suit for maintenance and recovery of dower through respondent No.4. In the referred suit, application for interim maintenance was also filed in which the order has been passed, whereby the interim maintenance has been fixed as Rs.25,000/- per month per child.

3. Learned counsel for the petitioner, *inter-alia*, contended that suit has been filed incompetently as it has been done so on behalf of respondents No.1 to 3 through respondent No.4. It was contended that the power of attorney appended with the suit clearly shows that it is only for a specific property and

not for filing the instant suit. It was further submitted that under the facts and circumstances the fixation of the interim maintenance is arbitrary and excessive.

4. Learned counsel for respondents No.1 to 4, *inter-alia*, contended that fresh power of attorney has been executed by respondent No.1, who filed the suit on behalf of respondents No.2 and 3 as they are minors, through her attorney respondent No.4. It was submitted that in the latter power of attorney the filing of the suit on the basis of earlier power of attorney has been rectified, hence there is no lacuna as such. It was further contended that in the facts and circumstances sum of Rs.25,000/- as interim maintenance is appropriate.

5. Arguments advanced by learned counsel for the parties have been heard and the documents placed on record examined with their able assistance.

6. The petitioner has not substantiated his plea regarding the fixation of the interim maintenance as excessive or not tenable in the facts and circumstances. It is trite law that an interim order cannot be interfered with unless it is without jurisdiction or patently illegal. In any case, the fixation of interim maintenance is tentative and can always be varied by the learned Trial Court upon conclusion of the trial. In so far as objection of the petitioner regarding the maintainability of the suit is concerned, learned counsel for respondents No.1 to 4 categorically submitted that a fresh power of attorney has been submitted in which filling of the suit has been rectified and respondent No.4 has specific authorization to pursue the suit. In the facts and circumstances, the impugned order does not warrant interference as there is nothing on record to establish that there was no jurisdiction to pass the order in question or the same was done in violation of any law.

7. For what has been stated above, the instant petition is without merit and is accordingly **dismissed**, however, the learned Trial Court is directed to

deal with the objection regarding the maintainability of the suit as a preliminary one.

**(AAMER FAROOQ)**  
**JUDGE**

*\*M. Zaheer Janjua\**