

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No. 2694 of 2022

Muhammad Zaheer

Vs.

Mst. Maria Pervaiz 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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(1)	20.07.2022.	Mr. Qaiser Iqbal, Advocate for the Petitioner.
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Through the instant petition, the Petitioner has assailed the Order dated 02.06.2022 (**Impugned Order**) passed by the learned Judge Family Court-West, Islamabad, whereby, interim maintenance allowance of Rs.6,000/- each per month has been fixed for Respondent No.2 to 4.

2. Facts, in brief, are that the Petitioner and the Respondent No.1 were married on 10.09.2010. From the wedlock, five babies were born out of which two died whereas three sons i.e. Respondents No.2 to 4 are alive. Respondents No.1 to 4 filed Suit for Recovery of Maintenance at the rate of Rs.15,000/- per month for each of the Respondents along with 10% annual increase and Rs.15,000/- per month feeding expense for the minor Respondent No. 4 from October, 2019 to onward.

3. The learned Judge, Family Court, East-Islamabad, vide the Impugned Order fixed the interim monthly maintenance of Respondent No.2 to 4 as mentioned above. The Petitioner

has assailed the said order through instant petition.

4. Learned counsel contended that the Impugned Order is not tenable inasmuch as the interim maintenance fixed by the learned trial Court is beyond the financial status of the Petitioner and learned Trial Court has not considered and appreciated this fact and prayed for setting aside of the Impugned Order. Learned counsel has relied on the judgments titled *Tauqeer Ahmad Qureshi Vs. Additional District Judge, Lahore*, PLD 2009 SC 760, *Khurram Shahzad Vs. Naseem Akhtar*, 2021 CLC 1300 (Islamabad), *Muhammad Shakir Vs. Additional District Judge, Islamabad*, 2021 CLC 809 (Islamabad), *Ansar Abbas VS. Judge Family Court*, 2018 CLC 1861 (Lahore), *Nosheen Agha Vs. Additional District Judge (West) Islamabad*, 2015 CLC 349 (Islamabad) and *Makhdoom Ali Vs. Mst. Razia Sultana*, 2007 MLD 41 (Lahore).

5. Argument heard, record perused.

6. The Impugned Order has been passed in pursuance of Section 17-A of the West Pakistan Family Courts Act, 1964, where under the Family Court has the jurisdiction to pass interim order for maintenance at any stage of the proceedings in a suit for maintenance. The purpose behind the provision of interim maintenance is to ensure that during the pendency of the legal proceedings, the minors are not faced with financial challenges.

7. Section 14 (3) of the West Pakistan Family Courts Act, 1964, bars an appeal or revision against an interim order passed by a Family Court with the obvious purpose to avoid delays.

8. The Impugned Order is merely an interlocutory order. The maintenance fixed through such an order is only temporary. The quantum of maintenance may be modified after appraising the evidence produced at trial. An aggrieved party will have a right to agitate his grievance before the appellate Court when the interim order merges into a final order. Even otherwise, quantum of interim maintenance, being a factual dispute cannot be made a ground for invoking the Constitutional jurisdiction of this Court.

9. I am guided by the consistent view taken by different Honorable Benches of the Islamabad High Court, Islamabad in various matters including the reported cases of *Dr. Aqueel Waris Vs. Ibrahim Aqueel Waris*, 2020 CLC 131; *Minhaaj Saqib Vs. Najam Us Saqib*, 2018 CLC 506; *Mashkoor Ahmed Khokhar versus The Family Judge (East), Islamabad*, 2019 CLC 1635; *Muhammad Touseeq Danial Bhatti versus Ayesha Naeem*, 2021 MLD 337; and *Aamir Munir Puri versus Mst. Saima Naeem*, 2021 YLR 2166, wherein it has been held that interlocutory orders by the Family Court cannot be assailed in Constitutional jurisdiction even though they may be harsh in some instances.

Case law relied upon by the learned counsel for the Petitioner does not advance his case. The instant petition is, therefore, not maintainable.

10. Thus, in the light of above said discussion and keeping in view the above said observations by this Court in the aforementioned cases the Impugned Order dated 02.06.2022 passed by the learned Judge, Family Court, West-Islamabad, does not call for interference in writ jurisdiction. Consequently, this Writ Petition is hereby **dismissed in limine.**

(SAMAN RAFAT IMTIAZ)
JUDGE