

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

**Writ Petition No. 154 of 2020**

**Imitaz Hussain**

Versus

**ADJ (East), Islamabad, etc.**

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	25.10.2022	Malik Talat Hussain, Advocate for petitioner. Mr. Majid Rashid Khan, Advocate for respondents.

Through the instant petition, the petitioner has assailed the judgment and decree dated 04.12.2019 as well as order and decree dated 30.10.2019 passed by the learned Additional District Judge (East), Islamabad and Judge Family Court (East), Islamabad respectively.

2. The learned counsel contended that the financial position of the petitioner was not considered while passing the impugned orders despite the fact that the petitioner in compliance of the order of the learned trial Court has deposited an amount of Rs. 1 *lac* at different times in the trial Court and requested the Court to decrease the monthly maintenance, as he is not in a position to pay Rs. 12000/- to each minor per month.

3. The learned counsel further contended that vide order dated 30.10.2019 instead of considering the request of the petitioner for decreasing the maintenance of the minors, the trial Court has unjustifiably enhanced the maintenance for Rs. 12,000/- to 20,000/- for each minor per month from the date of institution of the suit till their legal entitlement with 10% annual increase and the right of defence of the petitioner was also struck off under section 17-A of the Family Court Act, 1964. He further contended that the petitioner preferred the appeal against the order dated 30.10.2019 and the same was also dismissed vide order dated 04.12.2019.

4. The learned counsel states that the petitioner is running a small shop of silver in village Kharian Wala and his monthly income is about Rs. 15,000/- to 16,000/- and the petitioner is also looking after two children

from first wife. He further stated that the respondent No. 3 has prepared a bogus and fabricated school admission form which is annexed with the suit, wherein monthly income of the petitioner has been shown as Rs. 30,000/- per month.

5. The instant matter was taken up on 20.01.2020 by this Court and notices were issued to the respondents No. 3 to 5, whereafter learned counsel for the respondent appeared and contested the matter on merits as well as on factual grounds.

6. Today the matter was taken up, the learned counsel for the petitioner stated that vide order dated 02.12.2021 the suit filed by the petitioner has been dismissed due to non-prosecution.

7. Learned counsel for the respondent has placed on record execution application filed by the respondent for execution of the decree dated 30.10.2019. The learned counsel for the petitioner stated that he is unaware of the proceedings of execution.

8. Since the suit is no more pending before the learned trial Court and the respondent has filed execution of decree dated 30.10.2019 and notices have been issued to the petitioner, therefore, the instant writ petition become infructuous. The petitioner may avail remedy before appropriate forum.

9. In view of above, instant writ petition stand disposed of.

**(ARBAB MUHAMMAD TAHIR)**  
**JUDGE**