

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

Writ Petition No. 334 of 2023

Babar Hussain

Versus

Mariam Essam Muraj and others

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(1)	01-02-2023.	Mr. Imran Shaukat Rao, Advocate for the Petitioner.

Through the instant petition, the Petitioner [Babar Hussain] has assailed the Order dated 25-10-2022 (“**Impugned Order**”) through which the interim maintenance of the Minors/Respondent No.2 [Mikael Hussain] and Respondent No.3 [Essam Ibaad Hussain] has been fixed at the rate of Rs.15,000/- per month per head.

2. The brief facts of the matter are that Respondents No.1 to 3 filed a Suit for Dissolution of Marriage on the basis of Khula, Maintenance for the period of Iddat, Recovery of Dowry Articles and Personal Belongings, Recovery of Present and Future Maintenance of Plaintiffs [Respondents] and Delivery expenses of both the Minors before the learned Judge Family Court, Islamabad (West) (“**Family Court**”). The suit was contested by the Petitioner/Defendant through filing of his written statement. However, the learned Family Court, after failure of pre-trial reconciliation, passed the Impugned Order and fixed the interim maintenance for the

Minors/Respondents No.2 and 3 at the rate of Rs.15,000/- per month per head.

3. The learned counsel contended that the Impugned Order is not tenable as the interim maintenance fixed by the learned Family Court is beyond the financial status of the Petitioner and learned Family Court has not considered and appreciated this fact and prayed for setting aside of the Impugned Order.

4. Arguments heard. Record perused.

5. 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.

6. 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.

7. 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.

8. I am guided by the consistent view taken by different Honourable 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 passed 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.

9. 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 25-10-2022 passed by the learned Family Court, does not call for interference in writ jurisdiction. Consequently, this Writ Petition is hereby **dismissed in limine**.

(SAMAN RAFAT IMTIAZ)
JUDGE