

Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

W.P. No. 3925 of 2021

Mst. Tayyaba Siddiq Bukhari
Vs
Syed Junaid ul Hassan and others

| S. No. of order/ proceedings | Date of order/ proceedings | Order with signature of Judge and that of parties or counsel where necessary. |
|------------------------------|----------------------------|---|
| 03) | <u>17.10.2022.</u> | Ch. Saad Bin Shafique Advocate, for the petitioner. Syed Faizan Ali Gardezi Advocate, for the respondents. |

ATHAR MINALLAH, C.J.- Through this petition, the petitioner has invoked the constitutional jurisdiction of this Court vested under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 [hereinafter referred to as the "**Constitution**"] assailing judgment, dated 11.10.20221, passed by the learned Additional District Judge, Islamabad (East).

2. The petitioner and respondent no. 1, Syed Junaid ul Hassan, entered into a marriage contract on 26.11.2016. Nikah was executed at Islamabad. However, on account of matrimonial disputes, respondent no. 1 served a divorce notice on 07.11.2017. The divorce had also taken effect at Islamabad. The petitioner filed a suit for recovery of maintenance allowance and had also sought other prayers. However, the suit was dismissed by the learned trial court as

well as the learned Additional District Judge, Islamabad (East) for want of jurisdiction.

3. It is an admitted fact that the parties are citizens of Pakistan and they have been registered as such by the National Database and Registration Authority since their respective computerized National Identity Cards are valid and effective. It is also not disputed that Nikah was registered at Islamabad and the divorce had also taken effect within the limits of the Islamabad Capital Territory. Perusal of the plaint shows that the petitioner asserts that she resides in Islamabad. The cause of action has definitely arisen within the jurisdiction of the learned court at Islamabad.

4. The learned counsel for the respondents has placed reliance on the judgment rendered in the case titled "Majid Hussain v. Farrah Naz and others" [2017 YLR 84 Islamabad] in support of his contention that family court at Islamabad is not vested with jurisdiction. Perusal of the judgment unambiguously shows that the determining factor for assuming jurisdiction is the place where the cause of action has arisen. The assertions regarding the cause of action in the plaint filed by the petitioner undoubtedly affirm that it had arisen in Islamabad. These crucial factors were not taken into consideration by the learned trial court as well as the learned Additional District Judge, Islamabad (East).

5. The impugned judgment, dated 11.10.2021 has been passed without taking into consideration the material facts. The petitioner resides at Islamabad; Nikah was registered and the divorce had taken effect in Islamabad. The petitioner also resides in Islamabad as has been asserted in the plaint. The court at Islamabad is, therefore, vested with jurisdiction.

6. For the above reasons, the petition is **allowed** and the impugned judgment, dated 11.01.2021 is hereby set aside. The learned trial court is expected to proceed with the matter in accordance with law and conclude the proceedings at the earliest.

(CHIEF JUSTICE)