

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P No.231 of 2022

Ghazala Asjad

Vs.

Assistant Commissioner/Sub-Divisional Magistrate (City) and another

| 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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11.09.2023.

Mr. Jameel Hussain Qureshi, Mr. Azhar Yousaf, Mr. Qaiser Mansoor, Mr. Nawazish Ali, Mr. Muhammad Shahid and Ms. Almas Bano, Advocates for the Petitioner in their respective Petitions.

Barrister Munawar Iqbal Duggal, Additional Attorney General, Rana Imran Farooq, AAG and Ms. Asia Batool, AAG.

Ch. Imtiaz Ahmed Gujjar, Advocate for the Respondent No.2 in connected Petition.

1. Two questions were posed for the learned Additional Attorney General by this Court vide the last order. Today he submits that the judgment in the case reported as *Muhammad Kamran Mullahkhail vs. Government of Balochistan through Chief Secretary*, PLD 2012 Balochistan 57 has not been suspended by Apex Court though it is under challenge, however, the Federation submitted before the Supreme Court that Federal Legislature may be permitted to re-create Executive Magistracy by making amendments in Code of Criminal Procedure, 1898 subject to certain parameters as detailed in the C.M filed before the Supreme Court.

2. However with regard to the second question as posed in the last order both the learned counsels for the Petitioner as well as the learned Additional Attorney General are in agreement that the High Court is empowered to invoke Section 5(3) of the Family Courts Act, 1964 in order to add the matters pertaining to polygamy as per Section 6(5) of the

Muslim Family Law Ordinance, 1961 to Part-II of the Schedule to the Family Courts Act, 1964 and if the same is done then the Schedule read with Section 20 of the Family Courts Act, 1964 would empower the Family Courts to act as Judicial Magistrates to try offence of polygamy. Both the counsels have concluded their respective arguments. The matter is reserved.

(SAMAN RAFAT IMTIAZ)
JUDGE