

**ORDER SHEET.**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**Writ Petition 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.
	03.08.2023.	<b>Mr. Jameel Hussain Qureshi, Mr. Azhar Youasf and Mansoor Abbasi, Advocates for the Petitioner in their respective petitions. Rana Imran Farooq, AAG.</b>

The learned counsel for the Petitioner (Ghazala Asjad) relies upon *Ghulam Ali vs. Province of Sindh*, PLD 2020 284 to contend that even when there is no specific prayer to such effect the High Court is empowered to strike down any law if it is found to be ultra vires.

2. Be that as it may, the learned counsel was confronted with the latest judgment of the apex Court, whereby it has been held that a High Court is not empowered to take *suo moto* action. In this regard the learned counsel seeks time to peruse the said judgment and assist the Court as it appears that the Petitioners are seeking striking down of Section 2 of the Code of Criminal Procedure (Amendment) Ordinance, 2001 or in the alternative direction to the Federal Government to issue Notification pursuant to Section 5(3) of the Family Courts Act, 1964 and for the High Court to invoke Section 5(3) of the Family Courts Act, 1964 in order to empower Family Courts to take up the matters regarding polygamy as per Section 6(5) of the Muslim Family Law

Ordinance, 1961 despite the fact that none of such actions are included in their prayer.

3. The learned Additional Attorney General is directed to appear in respect of notice under Order XXVII-A, C.P.C. already issued vide the Order dated 17.03.2023.

4. Relist on 09.08.2023.

**(SAMAN RAFAT IMTIAZ)**  
**JUDGE**