

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD,
JUDICIAL DEPARTMENT.

Writ Petition No. 1791 of 2021

Zahid Raza

Versus

Learned Family Judge, Islamabad (West) and others.

S.No. of order/ proceeding	Date of order/ proceeding	Order with signature of Judge and that of parties or counsel where necessary.
(07)	26.01.2023	Ms. Saira Khalid Rajput, Advocate for the petitioner. Muhammad Abdul Rafeh, Advocate for the respondents No. 2 & 3.

Through the instant petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, the petitioner has impugned order dated 21.04.2021, passed by learned Judge Family Court / Guardian Judge, West-Islamabad, whereby, interim maintenance allowance of the minor was fixed at the rate of Rs.15,000/- per month which is to be paid since January, 2020.

02. Learned counsel for the petitioner, *inter alia*, contends that interim

maintenance has not been fixed according to financial status of the petitioner; the impugned order is against the law and facts of the case and is not sustainable in the eyes of law; the impugned order passed in a hasty manner; learned trial Court fixed the monthly maintenance allowance of minor from January, 2020 without considering the facts of case, whereas the suit for recovery of maintenance was filed on 22.04.2020, hence the impugned order is liable to be set-aside.

03. Learned counsel for respondents No.2 & 3 has controverted the arguments made by learned counsel for the petitioner and stated that impugned order was passed in accordance with law; the petitioner / father of respondent No.3 is bound to pay maintenance to the minor, hence instant writ petition is liable to be dismissed.

04. Arguments advanced by learned counsel for the parties have been heard and record has been perused with their

able assistance.

05. The petitioner has challenged the interim order for fixation of maintenance allowance of minor aged about five (05) years.

06. It is mentioned in Section 14(3) of the West Pakistan Family Courts Act, 1964 that:

"No appeal or revision shall lie against an interim order passed by a Family Court".

07. According to law, father is bound to pay maintenance of the minor. Learned trial Court has jurisdiction to fix interim maintenance of the minor according to law.

08. It has been held by the Hon'ble Supreme Court of Pakistan in a case titled as **Syed Saghir Ahmad Naqvi Vs. Province of Sindh (1996 SCMR 1165)**,

that:

"The statute excluding a right of appeal from the interim order cannot be passed by bringing under attack such interim orders in

Constitutional jurisdiction. The party affected has to wait till it matures into a final order and then to attack it in the proper exclusive forum created for the purpose of examining such orders.”

Reliance is also placed on the cases reported as **1976 SCMR 450** and **2020 SCMR 260.**

09. Learned counsel for the petitioner has failed to point out as to how the impugned / interim order passed by the learned Judge Family Court / Guardian Judge, West-Islamabad was the consequence of an error of law or without jurisdiction or in excess of jurisdiction.

10. In view of the above prospective, instant writ petition has no merits and the same is **dismissed.**

(TARIQ MEHMOOD JAHANGIRI)
JUDGE

Bilal /-