

***PESHAWAR HIGH COURT, PESHAWAR***  
**FORM OF ORDER SHEET**

| Date of Order<br>or Proceedings | Order of other Proceedings with Signature of Judge.  |
|---------------------------------|--|
| 1                               | 2  |
| 18.01.2016                      | <p><b><u>WP No. 4176-P/2015.</u></b></p> <p><b><i>Present: Mr. Shah Jehan Khan, Advocate for the petitioner.</i></b></p> <p style="text-align: center;">****</p> <p><b><u>QAISER RASHID KHAN, J.</u></b> Through the instant petition, the petitioner has called in question the judgment and order dated 21.9.2015 of the learned Judge Family Court-II Peshawar whereby she has fixed Rs.3000/- each for respondents No. 2 to 4 as monthly maintenance with direction to the petitioner/ defendant to pay the same before the 14<sup>th</sup> of each month failing which his right of defence shall be struck off.</p> <p>2. Brief facts leading to the instant petition are that the respondents No. 1 to 4 filed a suit for recovery of dower, dowry articles, maintenance and other expenses before the learned Family Court against the petitioner. During the course of proceedings, the said respondents also filed an application under section 17-A of the West Pakistan Family Courts Act, 1964 for interim maintenance for the respondents/ plaintiffs to which the petitioner submitted his reply and after hearing the learned counsel for the parties, the learned trial court allowed the said application through the impugned judgment and order, hence the present petition.</p> |

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|  | <p>Arguments heard and available record perused.</p> <p>3. All that the learned counsel for the petitioner vehemently pleads is that the financial position of the petitioner does not permit him to spare Rs.9000/- per month for respondents No.2 to 4 and to this effect he refers to the salary slip of the petitioner whereby he draws a monthly salary of Rs.13500/- per month and that he has also to look after his ailing mother.</p> <p>4. The present petition has been filed by the petitioner against an interim order of the learned Judge Family Court unmindful of the legal position that such order has been made non-appealable by virtue of subsection (3) of section 14 of the West Pakistan Family Courts Act, 1964 which is reproduced below for ready reference:</p> <p>“14. Appeal.---(1) Notwithstanding anything provided in any other law for the time being in force, a decision given or decree passed by a Family Court shall be appealable---</p> <p>(a) -----</p> <p>(b) -----</p> <p>(2) -----</p> <p>(a) -----</p> <p>(b) -----</p> <p>(c) -----</p> <p>(3) No appeal or revision shall lie against an interim order passed by a Family Court.”</p> <p>Simultaneously the interim maintenance order has been provided under section 17-A of the Act <i>ibid</i> which reads as below:</p> <p>“17-A. Interim order for maintenance---At any stage of proceedings in a suit for maintenance, the Family Court</p> |
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may pass an interim order for maintenance, whereunder the payment shall be made by the fourteenth of each month, failing which the Court shall strike off the defence of the defendant and decree the suit”

In view of the fact that the impugned order is an interlocutory one and the final judgment is yet to be passed by the learned trial court after recording the evidence of the parties coupled with the explicit language of section 14 of the West Pakistan Family Courts Act 1964 whereby the filing of an appeal against an interim order has been specifically prohibited, we understand that the learned Judge Family Court has not committed any illegality or jurisdictional error which could in turn call for the interference of this court through the present petition. Even otherwise, in this age of dearness when the prices of daily use items have gone sky high, Rs.3000/- per month for each child can by no stretch of imagination be termed to be exorbitant. The petitioner being the father of respondents No. 2 to 4 is under a legal and moral duty to provide the bare minimum maintenance amount for his three minor children.

For reasons stated above, this petition being not maintainable and meritless stands dismissed in limine.

***Announced:***  
**18.1.2016.**

***J U D G E***

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