

IN THE SUPREME COURT OF PAKISTAN  
( Appellate Jurisdiction )

**Present:**

Justice Naeem Akhtar Afghan

Justice Shahid Bilal Hassan

**Civil Petition No.3601-L Of 2022**

(On appeal against the order dated 28.10.2022 of the Lahore High Court, Lahore passed in W.P. No. 65452 of 2022)

Muhammad Saleem

... .. Petitioner

## Versus

ADJ

... Respondent

For the petitioner : Mr. Muhammad Tanveer Chaudhry, ASC

For the Respondent: Not represented

Date of hearing : 23.07.2024

# ORDER

**NAEEM AKHTAR AFGHAN, J.** After proceeding on merits, Family Suit No.1229-FJ-18 filed by the respondent Nos.3 to 6 (**plaintiffs**) against the petitioner (**defendant**) for recovery of maintenance allowance, recovery of an amount of Rs.1,00,000/- as per Iqrar Nama between the parties, has partially been decreed by the learned Judge, Family Court Pakpattan Sharif (**the Trial Court**) *vide* judgment and decree dated 24 September 2019 in the following terms:

- i. Plaintiff is entitled for recovery of maintenance allowance from the defendant @ Rs.3,000/- per month with 10% annual increase for her period of Iddat.
- ii. Minor plaintiff/respondent No.2 is found entitled to recover her maintenance allowance at the rate of Rs.4000/- per month from the date of institution of suit till their marriage with 10% annual increase.
- iii. The minor plaintiff No.3 & 4 are found entitled to recover their maintenance allowance at the rate of Rs.4,000/- per month per head from the date of institution of suit till their legal entitlement with 10% annual increase.
- iv. Claim of the plaintiff for past maintenance allowance is hereby declined.

v. *Claim of plaintiff for recovery of gold ornaments is hereby declined.*

2. The defendant preferred appeal which came up for hearing before learned Additional District Judge, Pakpattan Sharif (**the Appellate Court**). The appeal was dismissed by the Appellate Court *vide* judgment and decree dated 22 November 2019.

3. On 15 January 2022 the defendant submitted a miscellaneous application before the Appellate Court for recalling the judgment and decree dated 22 November 2019 on the ground that neither he had filed any appeal nor he had thumb impressed or signed any appeal; that filing of appeal was managed by plaintiff No.1 (*Mst. Parveen Akhtar*) in the name of defendant by engaging a lawyer; that he did not engage *Mr. Zafar Yab Khan*, Advocate (his counsel at the trial).

4. After hearing the defendant in person with *Malik Muhammad Akram Naz* Advocate, the Appellate Court observed that the memo of appeal titled as "*Muhammad Saleem V. Parveen Akhtar etc.*" which was filed to challenge the judgment and decree dated 24 September 2019 passed by the Trial Court, was bearing thumb impressions and signatures of the defendant. It was further observed by the Appellate Court that the defendant has not submitted any application against the Advocate before any forum.

5. In view of the above observations, the application of the defendant was dismissed *in-limni* by the Appellate court *vide* order dated 27 January 2022.

5. Without disclosing the above order dated 27 January 2022 passed by the Appellate Court on his miscellaneous application, the defendant filed Writ Petition No.61308 of 2022 before Lahore High Court challenging the judgment and decree dated 24 September 2019 passed by the Trial Court as well as the judgment and decree dated 22 November 2019 passed by the Appellate Court.

6. On 7 October 2022, *Rana Sohail Ashraf*, Advocate appearing on behalf of the defendant in Writ Petition No.61308 of 2022

solicited permission to withdraw the writ petition on instructions of the defendant due to which writ petition No. 61308 of 2022 was "*dismissed as withdrawn*" by Single Bench of Lahore High Court *vide* order dated 7 October 2022.

7. Subsequently on 5 November 2022, the defendant filed another Writ Petition No.65452/2022 in Lahore High Court challenging the judgment and decree dated 24 September 2019 passed by the Trial Court as well as the judgment and decree dated 22 November 2019 passed by the Appellate Court with the contention that the earlier Writ Petition No.61308/2022 was withdrawn by the learned counsel without his instructions and on getting knowledge about withdrawal of his writ petition by his counsel without his instructions, he has filed second writ petition by engaging *Mr. Muhammad Tanveer Chaudhary*, Advocate.

8. Second Writ Petition No.65452/2022 filed by the defendant has been dismissed by Single Bench of the Lahore High Court *vide* order dated 28 October 2022 with imposition of cost of Rs.50,000/- upon the defendant holding the same as "*frivolous and otherwise not maintainable in law*" against which the defendant has filed the instant petition.

9. At the very outset, learned counsel for the petitioner stated that he is not pressing the instant petition on merits and will press the same to waive off the cost of Rs.50,000/- imposed upon the defendant by the Lahore High Court and to grant permission to the defendant to satisfy the judgment and decree dated 24 September 2019 passed by the Trial Court in installments.

10. While dismissing Writ Petition No.65452 of 2022, Single Bench of Lahore High Court has made serious observations about misconduct of the defendant who by concealment of relevant facts from the lawyers and Courts, managed to file miscellaneous application as well as second writ petition after dismissal of his appeal on merits by the Appellate Court and after withdrawal of his earlier writ petition from Lahore High Court by making false accusations against the worthy lawyers without any substance.

11. In the peculiar circumstances of instant case, the defendant does not deserve any leniency. There are no convincing reasons to waive off the cost of Rs.50,000/- imposed upon the defendant by Single Bench of Lahore High Court *vide* impugned order dated 28 October 2022.

12. The request made by learned counsel for the defendant for satisfaction of the judgment and decree dated 24 September 2019 passed by the Trial Court in instalments cannot be entertained by this Court as no such application has been filed by the defendant, being judgment debtor, before the Executing Court.

For the above reasons, while refusing leave to appeal, the petition is dismissed.

**Judge**

**Judge**

Islamabad  
23.07.2024  
Atif \*

**NOT APPROVED FOR REPORTING**