

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

JUSTICE YAHYA AFRIDI, CJ
JUSTICE MUHAMMAD SHAFI SIDDIQUI
JUSTICE MIANGUL HASSAN AURANGZEB

C.P.L.A. NO.3519 OF 2021

(Against the order dated 19.04.2021 of the Lahore High Court, Lahore passed in W.P. No.62232 of 2020)

Muhammad Naseer Butt

...Petitioner

Versus

Additional District Judge, Lahore, etc.

...Respondents

For the Petitioner: Barrister Haris Azmat, ASC

For the Respondents: Ch. Zafar Ullah, ASC (via video link (Lahore)) for respondents No.3 and 4.

Date of Hearing: 06.05.2025

ORDER

MIANGUL HASSAN AURANGZEB, J.- The instant petition was filed against the judgment dated 19.04.2021 passed by the Lahore High Court in writ petition No.62232/2020 dismissing the petitioner's challenge to judgment and decree dated 04.11.2020 passed by the appellate court, whereby respondents No.3 and 4's appeal against the order and decree dated 14.05.2019 passed by the family court, was allowed by enhancing the maintenance for each of the said respondents from Rs.30,000/- to Rs.150,000/- per month along with educational expenses.

2. On 14.11.2017, the petitioner's daughters, Zeina Naseer Butt (respondent No.3) and Imaan Naseer Butt (respondent No.4) had instituted a suit against the petitioner for the recovery of maintenance. Earlier the said suit had been decreed *ex-parte* on 15.02.2018. On the petitioner's application, the *ex-parte* decree was set aside vide order dated 08.06.2018 with the direction to the petitioner to pay as interim maintenance Rs.30,000/- per month to each of his daughters. Failure on the petitioner's part to pay

interim maintenance caused the family court to invoke its powers under Section 17-A of the West Pakistan Family Courts Act, 1964 and consequently, the suit was decreed on 14.05.2019.

3. The instant petition was filed on 06.06.2021. After remaining pending for more than three and a half years, this court vide order dated 15.03.2025 referred the dispute between the parties to mediation by Ms. Sara Tarrar, who is an advocate of the High Court and an Accredited Mediator duly notified by the Law and Justice Division under the provisions of the Alternative Dispute Resolution Act, 2017. The contesting parties participated in the process of mediation and were able to arrive at a settlement. The Mediator, along with her report dated 05.05.2025 filed a copy of the settlement agreement, which has been taken on record. The learned counsel for the contesting parties request for a decree to be pronounced in terms of the said settlement agreement.

4. The purpose of detailing hereinabove the litigation history between the parties is to underscore that the dispute between the father/petitioner and daughters/respondents No.3 and 4 has traversed various judicial tiers and has extensively consumed judicial time and resources. The swift conclusion of mediation achieved within approximately five weeks starkly contrasts with the prolonged adversarial litigation spanning over more than seven years (from the date of the institution of the suit to the date of reference to mediation).

5. Mediation is not merely an alternative to litigation; it is a paradigm shift in dispute resolution, built on the principles of collaboration, confidentiality, and party autonomy. It offers a non-adversarial framework that empowers parties to shape the outcome of their own disputes, guided by a neutral facilitator rather than a judicial determination.

6. The benefits of mediation are manifold. It reduces the costs associated with protracted legal battles, alleviates the burden on courts, and ensures quicker resolution of disputes. The confidential nature of mediation protects the privacy of the parties, and its informal setting encourages honest communication and problem-solving. Moreover, the flexibility of the process allows parties to explore creative, interest-based solutions that a court of law may not be empowered to grant. These benefits were remarkably evident in the present case. What years of litigation could not resolve, mediation achieved within weeks. This reinforces the principle that the earlier a dispute is channeled through mediation, the greater the potential for cost and time savings, reduced emotional strain, and restored relationships.

7. Courts must embrace a pro-mediation ethos, particularly at the initial stages of litigation. Judges and lawyers must be sensitized to identify cases fit for mediation and facilitate their referral in a timely manner. Litigants, likewise, should be encouraged to consider mediation and other methods of alternative dispute resolution as a first resort, rather than a last recourse.

8. The statutory recognition and legislative frameworks provided by the Alternative Dispute Resolution Act, 2017, and subsequent provincial legislations underline mediation's established legal validity. Recent judicial directions and rules, such as the ADR Mediation Accreditation (Eligibility) Rules, 2023 and Mediation Practice Direction (Civil) Rules, 2023, further consolidate mediation as a mainstream dispute resolution tool within Pakistan's judicial ecosystem.

9. The case at hand underscores the efficacy and benefits of mediation, particularly in familial contexts where adversarial litigation often exacerbates emotional distress, imposes significant

financial burdens, and strains familial ties. Had mediation been pursued earlier, the extended litigation and accompanying costs, both monetary and emotional, could have been substantially mitigated or altogether avoided in the present case.

10. This court expresses its profound appreciation to Ms. Sara Tarrar for her expert mediation, patience and diligence in facilitating dialogue and fostering an atmosphere of mutual respect and cooperation, culminating in a satisfactory resolution acceptable to the contesting parties. Her contributions have vividly demonstrated mediation's potential to provide a timely, efficient and humane avenue for resolving disputes.

10. For the purposes of this order, it is not necessary to restate the terms of the settlement between the parties. A decree in terms of the settlement agreement dated 05.05.2025 shall be drawn up by the family court at the earliest. Office shall transmit a copy of this order along with the settlement agreement for drawing up a decree. This petition stands disposed of in terms of the settlement agreement.

Chief Justice

Judge

Judge

Islamabad, the
6th May, 2025
Approved for reporting
Sanaullah*.