

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**

Mr. Justice Naeem Akhter Afghan  
Mr. Justice Muhammad Shafi Siddiqui

**Civil Petition No. 930 of 2024**

*[Against the judgment dated 19.02.2024 of the  
Peshawar High Court, Peshawar passed in Writ  
Petition No. 5091-P/2023]*

*Khalid Pervaiz ul Haq and another.* ... *Petitioners*

**Versus**

*Mst. Minha Asif and another.* ... *Respondents*

For the Petitioners: Ch. Hafeez Ullah Yaqub, ASC.  
Syed Rifaqat Hussain Shah, AOR.

For the Respondents: Mr. Burhan Latif Khaisori, ASC.

Date of Hearing: 22.04.2025.

**ORDER**

**Muhammad Shafi Siddiqui, J.** This petition for leave to appeal arises out of a judgment dated 19.02.2024 passed in Writ Petition No.5091-P of 2023. In the Writ Petition, the petitioners had assailed an interlocutory order dated 26.10.2023 of the learned Judge Family Court-V, Peshawar, whereby not only the application for remission of cost of three thousand rupees (Rs.3000/-) was turned down, but the right of the petitioners to cross-examine the respondents' witnesses has also been struck off. The order of the Trial Court dismissing the application for remission of cost and the right of cross-examination of the plaintiffs'/respondents' witnesses being struck off is reproduced below for ease of reference:

*Plaintiff through father and counsel while defendant No. 1  
in person along with counsel present. The defendants'  
counsel submitted an application for remission of cost*

*imposed upon the defendants on last date on the ground that he (the counsel) could not appear before the court due to his some family function. As per the record, the plaintiff's entire evidence was present on last date but defendant No.1 had sought adjournment without giving any reason resultantly, the defendants were burdened with cost of Rs.3000/- for putting the opposite party inconvenience. The defendants' counsel has not given any plausible reason for his absence, hence, the application in hand stands reject.*

*Complete evidence of the plaintiff was present since morning. Examination-in-chief was recorded as PW-2 and PW-3. After recording examination-in-chief of witnesses, the defendants' counsel stated that he has case before High Court and that he shall cross-examine the witnesses after getting free from High Court.*

*At 02.30 pm, the defendants' counsel appeared and submitted an application for granting time to prepare cross-examination of the PWs.*

*As per the record, the plaintiff's complete evidence was present on the last two dates also, however, the defendants had obtained adjournments for recording evidence on different pretexts. Defendants were given notice of striking off right of cross-examination firstly on 11.09.2023, however, despite that the defendants did not cross-examine the plaintiff's witnesses. On last date of hearing, i.e. 05.10.2023, the defendants were again given last chance on cost of Rs.3000/- and notice of striking off right of cross-examination was kept intact, however, today also the defendants' counsel failed to cross-examine the plaintiff's witnesses without any sufficient cause. Hence, in the present situation, the Court is left with no option but to strike off right of cross-examination of the defendants. Right of the defendants to cross-examine the plaintiff's witnesses is hereby struck off.*

2. Section 12A of the West Pakistan Family Courts Act, 1964 makes it obligatory for the Trial Court to decide/dispose of a case/family suit within a period of six months from the date of institution. Indeed, it is a right of every litigant to cross-examine the witnesses deposing evidence, but that cannot be stretched down to an unreasonable desire of the counsel and litigant seeking adjournments one after the other and the reasons which were not found sufficient by the Trial Court, as could be seen that numerous opportunities were provided.

3. Another aspect of the case is that the aforesaid special law restricts and prohibits a challenge made to an interim/interlocutory order in terms of section 14(3) of the West Pakistan Family Courts Act, 1964. Though there is none but even the jurisdictional defect could also be placed before the court adjudicating the trial of a family suit. The trial under the special law especially under the West Pakistan Family Courts Act, 1964 requires strict adherence which ought to be complied, otherwise the essence and effectiveness of the law will be frustrated. Indeed, if any right is curtailed by any interim order not appealable, it can well be merged with and into final order and would then, if required be available for a challenge alongwith other grounds.

4. This being the situation, no interference is required. The impugned order which maintained the order of the learned Judge Family Court-V, Peshawar dated 26.10.2023 is maintained.

5. In view of the above, this petition is dismissed and leave to appeal is refused.

Judge

Judge

Islamabad:  
22.04.2025  
(M. Tauseef)