

IN THE HIGH COURT OF SINDH KARACHI

Const. Petition No. S-1373 of 2025
(M. Ramzan Khan @ Afzal vs. Mst. Farhat & Another)

Date	Order with signature(s) of Judge(s)
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Hg:/Priority.

- 1. For orders on office objections.
- 2. For orders on Misc. No.8747/25
- 3. For hearing of Misc. No.8748/25
- 4. For hearing of main case.

07.09.2026.
Mr. Hussain Bux Baloch, Advocate for the Petitioner.

ORDER

Nisar Ahmed Bhanbhro, J. None present for the respondent. On the last date of hearing it was held that if any one fails to appear on behalf of Respondents matter shall be heard and decided on the basis of material available on record.

2. The crux of the controversy involved in the lis is the enhancement of the maintenance allowance by the Executing Court. It is the case of the Petitioner that, after the pronouncement of the judgment and decree, the Court had become functus officio and was only required to pass an order regarding the implementation and execution of the decree strictly in accordance with its terms. Therefore, order dated 15.05.2025 enhancing maintenance in execution proceedings is illegal, not maintainable and may be set-aside.

3. Heard arguments and perused the material available on record.

4. It transpired from the record that Respondents filed suit for maintenance. The learned Trial Court, vide its judgment and decree dated 25.03.2019, fixed maintenance allowance at the rate of Rs. 2,500/- per month with effect from October 2017 until the legal entitlement of minor. During the execution proceedings, an application was filed before the Executing Court seeking enhancement of the maintenance allowance. The Executing Court, vide its order dated 15.05.2025, enhanced the maintenance allowance of the minor to Rs. 7,000/- per month with effect from May 2025. Under Section 7 of the Family Courts Act, the Family Court is empowered to grant maintenance, and during execution proceedings, the Court may invoke such jurisdiction to enhance the maintenance allowance if it is found that the amount fixed under the decree was not reasonable in view of the prevailing circumstances. Although Section 13 of the Family Courts Act, 1964 excludes the applicability of the Code of Civil Procedure, 1908, to the proceedings before the Family Court, at the same time, the Family Court is vested with the powers of a Civil Court in matters falling within

its jurisdiction. Accordingly, in exercise of its inherent jurisdiction, the Court may alter or enhance the rate of maintenance allowance.

5. From the record, it transpires that the suit was decreed in the year 2019, whereby the maintenance allowance was fixed at Rs. 2,500/- per month, which amounted to less than Rs. 100/- per day. Taking a lenient view of the matter and keeping in view the prevailing circumstances, the Court enhanced the amount of maintenance and fixed the maintenance allowance at Rs. 7,000/- per month which within its power, and reliance placed on the case of Lt. Col. Nasir Malik Vs. Additional District Judge, Lahore & Ors. reported as 2016 SCMR 1821, wherein Hon'ble Supreme Court of Pakistan has been pleased to held that:-

“6. Before parting with this Order, it must be noted that despite such a low maintenance allowance fixed (and later on enhanced) by the three foras below, the Petitioner, as raised by the Respondents and not controverted by the Petitioner, has defaulted and failed to fulfill his legal obligations in that the Petitioner has not paid the maintenance allowance in full. In light of this, the Parties shall submit the concise statement(s) as to payment and non-payment of maintenance allowance fixed by the Court's below before the learned executing Court and the Petitioner, after determination of variance, if any, shall be bound to clear the arrears of maintenance allowance so determined within a period of three months in equal installments.”

6. For the foregoing reasons, no case of indulgence of this Court is made out, instant petition fails and is hereby dismissed alongwith pending applications.,

JUDGE