

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P.No.S-1382 of 2023

Ramzan Khalid.....v.....Khalid Ahmed & another

DATE

ORDER WITH SIGNATURE(S) OF JUDGE(S)

- 1.For hearing of CMA No.10088/2023
2.For hearing of main case.

03-08-2026

Mr.Muhammad Khalid, Advocate for the Petitioner.
Mr.Raja Masood Ahmed Qazi and Mr.Obedullah A. Abro, Advocates for
the Respondent No.1

This petition has been directed against the order dated 20.07.2023 passed by learned XIXth Family Judge, South, Karachi in Family Suit No.2551/2022 (Ramzan Khalid.....v.....Khalid Ahmed) and the judgment dated 17.11.2023, passed by learned XIIth Additional District Judge, Model Civil Appellate Court, Karachi South in Family Appeal No.145 of 2023 (Ramzan Khalid.....v.....Khalid Ahmed).

2. It transpires from the record that the petitioner filed a suit for maintenance and in the prayer clause he claimed the maintenance from May-2007 to December 2012 @ Rs.15,000/- per month, then @ Rs.25,000/- per month from January 2013 till his legal entitlement with increment of 15% per annum. The learned trial Court decreed the suit from the date of its filing and in the appeal the order of the trial Court was modified and the maintenance was granted from November 2019.

3. It is the case of the petitioner that he was ejected by his father from his life since his birth, however, both the Courts below failed to consider the main aspect and only granted maintenance to the petitioner from the year 2019 to September 2022.

4. Heard the arguments and perused the material available on record. Perusal of the record reveals that the petitioner has claimed maintenance from the year 2007 and specifically averred that he was ejected by his father since his birth. In the written statement though such claim was

denied but from the record it transpires that the mother of the petitioner was divorced in month of May 2007 and since then the petitioner was residing with his mother but no proof is available to say that the father during the said period maintained the minor. Since there are counter claims therefore, it is imperative upon the trial Court to frame such issue and record evidence but the learned trial Court without recording any evidence or getting affidavit in evidence of the petitioner decreed the suit and ordered for payment of maintenance that too without any findings as to financial capacity of respondent. Without disturbing the order dated 20.07.2023, which was passed pursuant to failure of the respondent to pay the interim maintenance allowance. The judgment and decree passed by the Courts below are set-aside and matter is remand back to the trial Court wherein the petitioner shall be allowed to produce the evidence and the respondent shall also be allowed to cross examine the plaintiff/petitioner, and thereafter, a fresh judgment with regard to payment of the maintenance shall be passed. The interim maintenance order passed on 14.02.2023 shall remain in the field and shall be implemented by the learned trial Court.

5. This petition stands disposed of in the above terms. Office to send copy of this order to learned trial Court for compliance.

Judge

nasir