

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA

Constitution Petition No.S-254 of 2026
(Agha Sajjad Hussain Khan Vs. Mst. Suhela)

DATE	ORDER WITH SIGNATURE OF JUDGE
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01. For orders on office objection "A".
02. For orders on M.A.No.628/2026. (S/A)
03. For hearing of main case.

25.09.2026.

M/s. Muhammad Ali Unar & Fahad Hussain Mughal,
Advocates alongwith Petitioner.

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Ali Haider ‘Ada’ J.- The suit for maintenance, dower, dowry articles and medical expenses was instituted by the respondent before the learned Family Judge-I, Garhi Yasin. During the pendency of the Family Suit, the respondent moved an application under Section 17-A of the West Pakistan Family Courts Act, 1964, which was dismissed by the learned Family Judge vide order dated 07.02.2026. Thereafter, the respondent filed a second application under the same provision of law, which was entertained by the learned Family Judge and allowed vide order dated 10.04.2026, whereby interim maintenance of Rs.3,000/- per month was awarded for the minor Zuhan. The said order has been assailed before this Court.

2. Learned counsel for the petitioner contends that the second application was not maintainable, as the matter had already been decided by the learned Family Judge vide order dated 07.02.2026. He further submits that the Family Suit contains no prayer for interim maintenance or maintenance of minor Zuhan and, therefore, the learned Family Judge had no occasion to pass the impugned order. However, he admits that the petitioner was the husband of the respondent, that their marriage has been dissolved by divorce, and that minor Zuhan was born out of the said wedlock. He, therefore, prays for setting aside of the impugned order.

3. Heard and perused.

4. There is no dispute that Section 17-A of the West Pakistan Family Courts Act, 1964 provides the mechanism for grant of interim maintenance during the pendency of a Family Suit. For ready reference, Section 17-A of the West Pakistan Family Courts Act, 1964 is reproduced hereunder:

[17A. Suit for maintenance.— (1) In a suit for maintenance, the Family Court shall, on the date of the first appearance of the defendant, fix interim monthly maintenance for wife or a child and if the defendant fails to pay the maintenance by fourteen day of each month, the defence of the defendant shall stand struck off and the Family Court shall decree the suit for maintenance on the basis of averments in the plaint and other supporting documents on record of the case.

(2) In a decree for maintenance, the Family Court may:

(a) fix an amount of maintenance higher than the amount prayed for in the plaint due to afflux of time or any other relevant circumstances; and

(b) prescribe the annual increase in the maintenance.

(3) If the Family Court does not prescribe the annual increase in the maintenance, the maintenance fixed by the Court shall automatically stand increased at the rate of ten percent each year.

(4) For purposes of fixing the maintenance, the Family Court may summon the relevant documentary evidence from any organization, body or authority to determine the estate and resources of the defendant.]

5. From a perusal of the record, it transpires that the earlier application was dismissed in relation to the claim for medical expenses, whereas the subsequent application was moved for grant of maintenance to the minor child. The learned Family Court, while considering the said application, awarded interim maintenance of Rs.3,000/- per month. Even this amount has been assailed by the petitioner. However, considering the circumstances of the minor child and the obligation of the father to maintain his child, the amount requires reconsideration by the learned Family Court.

6. It is settled that the Family Court, in exercise of powers under Section 17-A of the Family Courts Act, 1964, is competent to grant

interim maintenance during the pendency of proceedings so as to ensure that the minor child does not suffer financial hardship during the litigation. The quantum of interim maintenance may also be enhanced or reduced by the Family Court in accordance with the circumstances of the case and the material available on record.

7. In the present case, the amount of Rs.3,000/- per month awarded to the minor appears to have been fixed without adequately considering the circumstances highlighted before the learned Family Court. The record further reflects that the respondent repeatedly brought to the notice of the learned Family Court the difficulty in meeting the expenses of the minor. The petitioner, being the father, is under a legal and moral obligation to provide maintenance to his minor child. Such obligation does not depend merely upon the filing of an application by the mother; rather, the father is expected to discharge his obligation voluntarily and regularly.

8. Accordingly, the petitioner has failed to make out any ground for interference with the impugned order. The instant petition is, therefore, dismissed in *limine*. However, the learned Family Court is directed to reconsider and determine the appropriate quantum of interim maintenance in the light of the present circumstances, keeping in view the needs of the minor child, the financial capacity of the petitioner and the material available on record, and shall record proper reasons and findings while fixing the amount.

JUDGE