THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

C.P No. S-371 of 2026

[Inayatullah Bhutto Vs. Civil /Family Judge-III, Larkana & another]

Petitioner	**:**	Through Mr. Shakeel Ahmed Abro, Advocate
Respondent No. 1	**:**	Through Mr. Saeed Akbar Siyal, Assistant Advocate General, Sindh
Respondent No. 2	**:**	Through Mr. Rafique Ahmed K. Abro, Advocate
Date of Hearing	**:**	**16-11-2026**
Date of Order	**:**	**16-11-2026**

O R D E R

ARBAB ALI HAKRO, J;- Through this petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner has called in question the order dated 17.09.2026 (**the impugned order**) passed by the learned Civil/Family Judge-III, Larkana (hereinafter referred to as '**the Family Court**') in Family Suit No.36 of 2026, whereby an application under section 17-A of the Family Courts Act, 1964 (hereinafter referred to as **'the Act, 1964**') was allowed and the petitioner was directed to pay interim maintenance of Rs.20,000/- per month for his minor grandson, Muhammad Azan, till disposal of the suit.

2. The facts are confined to a narrow compass. Respondent No.2 was married to the petitioner's son, Muhammad Younis Bhutto, who died on 20.07.2023, leaving a minor son. The minor is in the custody of Respondent No. 2 under an order of the Guardian Court dated 29.03.2025, which was maintained on appeal on 11.10.2025. She instituted the above suit against the petitioner for maintenance of herself and the minor, pleading that the petitioner is in possession of the shops and building left by the deceased and is receiving their rent. The petitioner contested the suit, asserting that respondent No.2 had been divorced by his son on 03.05.2023 and that she alone had drawn the insurance claim of the deceased. Issues were framed on 25.03.2026. The evidence of respondent No.2 has been recorded, and the suit is fixed for cross-examination of the petitioner. In the meantime, the Family Court, by the impugned order, allowed interim maintenance for the minor alone.

3. Learned counsel for the petitioner contends that on 17.09.2026 the suit was fixed for the cross-examination of the petitioner, not for the hearing of the application; that his request for an adjournment was allowed, yet the impugned order was passed without hearing him, in violation of Article 10-A of the Constitution; that the order is not a speaking order and virtually decides the whole lis; that respondent No.2, having received the insurance amount, is not entitled to maintenance; and that two civil suits regarding the estate of the deceased are pending between the parties. He submits that, under Section 14 of the Act, 1964, which provides no appeal or revision against an interim order, the petitioner has no remedy other than this petition.

4. Conversely, learned counsel for respondent No. 2 supports the impugned order. He submits that it is interim in nature, was passed after hearing both sides, and is not open to challenge in view of Section 14(3) of the Act, 1964. He further submits that, having died, the father of the minor leaves a property whose rent the petitioner is collecting, and that the petitioner is bound to maintain the minor.

5. Learned Assistant Advocate General has adopted the same arguments.

6. Heard. Record perused.

7. The impugned order is, admittedly, an interim order. Section 14(3) of the Act, 1964, in plain words, provides that no appeal or revision shall lie against an interim order passed by a Family Court. The petitioner's own case is that he has come to this Court because that door is closed. That, with respect, is precisely the reason this Court ought to keep its hands. In ***Khalid Pervaiz ul Haq*** [1], the Supreme Court, while declining to interfere with the dismissal of a writ petition filed against an interlocutory order of a Family Court, held that the Act, 1964 restricts and prohibits a challenge to an interim order under section 14(3), that a trial under the special law requires strict adherence lest its effectiveness be frustrated, and that a right curtailed by an interim order which is not appealable merges into the final order and may be agitated in the challenge to it. The same principle was stated in ***President All Pakistan Women Association*** [2], where it was held that a

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[1] *Khalid Pervaiz ul Haq v. Mst. Minha Asif* PLD 2025 SC 847.
[2] *President All Pakistan Women Association, Peshawar Cantt. v. Muhammad Akbar Awan* 2020 SCMR 260.

remedy which the statute has expressly barred cannot be sought indirectly through the constitutional jurisdiction, which is equitable and discretionary and is not to be exercised to defeat the purpose of a validly enacted provision.

8. Interference under Article 199 with such an order could, therefore, be considered only if it were shown to be without jurisdiction or in disregard of the statute. Neither is the case. Section 17-A empowers the Family Court to pass an interim order for maintenance at any stage of a suit for maintenance. The suit is for maintenance, and the petitioner is the defendant. As to a grandfather, the Supreme Court in ***Bashir Ahmad***[3] has held that where the father of a child has died or is without means, the obligation to maintain the child passes to the grandfather, provided he is in easy circumstances, and that in a suit brought against the grandfather the Family Court may make an order for interim maintenance if it is satisfied that these conditions are prima facie fulfilled. The death of the minor's father is admitted. On the second condition, the Family Court has recorded its tentative satisfaction with reference to the property documents on its file. It may be added that the petitioner himself pleaded before the Guardian Court that he is financially sound and able to provide for the minor, and in his written statement he does not deny that the property left by the deceased is let out. Whether that tentative view is ultimately right is for the Family Court to decide on the evidence; it is not for this Court, in its supervisory jurisdiction, to weigh the material afresh.

9. The plea that the petitioner was condemned unheard is not supported by the record. The impugned order opens by noting that the parties and their counsel were in attendance, records that they were heard, sets out the objections of the petitioner and deals with them. The diary of the same date also shows the petitioner and his counsel present. The petitioner had filed written objections supported by his affidavit, and those were before the Family Court. A presumption of correctness attaches to judicial proceedings and orders, and an allegation disputing what a court has recorded, unsupported by the affidavit of the counsel who was present, cannot be made a ground for upsetting the order, as held in ***Syed Ali Ahmed Shah***[4]. No such affidavit has been filed. Even otherwise, Section 17-A permits such an order at any stage of the proceedings.

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[3] *Bashir Ahmad v. Additional District Judge, Hafizabad* PLD 2024 SC 67.
[4] *Syed Ali Ahmed Shah v. Syed Shoukat Hussain Shah* 2025 SCMR 361.

10. The other grounds are equally without substance. The impugned order gives reasons. It does not decide the *lis*; the Family Court has, in terms, left the question of divorce and the final rate of maintenance to be determined after the evidence of both sides, and has confined the interim relief to the minor. The plea based on the insurance amount received by respondent No. 2 raises a question of fact, which the Family Court has rightly left for trial. The pendency of the civil suits regarding the estate has no bearing on the maintenance of the minor, which lies within the exclusive jurisdiction of the Family Court.

11. For these reasons, no case for the exercise of the constitutional jurisdiction is made out. The petition is **dismissed** along with pending application(s), if any.

JUDGE

Zulfiqar