

IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.S-874 of 2022

[Mst. Hurain Junaidv..... Judge Family Court XVI & another]

Date of Hearing : 16.02.2023
Petitioner through : Syeda Khushbat Shah, Advocate.
Respondents through : *Nemo.*

ORDER

Zulfiqar Ahmad Khan, J:- The petitioner impugns the findings of the learned Family Judge Karachi East passed in Family Suit No.1338 of 2022, whereby, the learned Family Court dismissed the petitioner's application filed under Section 17-A of the Family Court Act, 1964 for fixation of interim maintenance.

2. Pithily the facts of the case at hand is that the petitioner filed a suit for maintenance against the petitioner and during pendency of the said suit, the petitioner preferred an application under Section 17-A of the Family Court Act, 1964 ("Act") for fixation of the interim maintenance which was declined by the learned Family Court vide order dated 03.08.2022 hence the petitioner impugned the said order before this Court.

3. The crux of arguments of learned counsel for the petitioner is that the petitioner is pregnant woman and carrying a baby of respondent No.2 which is an admitted position and under the provision of 17-A of the Act the learned Family Court is duty bound to fix the interim maintenance rather dismissing the plea of the petitioner raised under Section 17-A of the Act. She further contended that the respondent No.2 pronounced Talaq to the petitioner on 12.02.2022 and the petitioner delivered the baby of the

respondent No.2 on 02.07.2022, therefore, the respondent No.2 is duty bound to maintain his child and pay the maintenance to the petitioner. She lastly contended that the petitioner is only seeking some directions against the respondent No.1 to decide the application of the petitioner in accordance with law.

4. None present for the respondent. I have heard learned counsel for the petitioner at length and have also scanned the available record. It is well settled that it is the sacrosanct duty of the father to provide maintenance to his child and to fulfill this obligation, the father is required to earn money even by physical labour, if he is able-bodied, and could not avoid his obligation. The Family Court Act, 1964 is a special statute and has been enacted with a specific purpose to ensure expeditious settlement and disposal of disputes relating to marriage and family affairs and also matters connected therewith. It, inter alia, has bestowed upon the Family Court powers under section 17-A of the Act *ibid* to grant interim maintenance to the concerned parties during the pendency of the proceedings. The purpose behind this legislation is to ensure that during pendency of these proceedings with the Family Court financial constraints faced by the minors are ameliorated. The Family Court has uninhibited powers to enhance or decrease the quantum of maintenance after appraising, deciphering and examining the evidence produced during trial. It is the province of the learned Family Court to grant interim maintenance under section 17-A of the Act *ibid* to the concerned parties during the pendency of the proceedings rather than declining the application. This petition is disposed of and the learned respondent No.1 is directed to decide the application under Section 17-A of the

Act afresh and fix the interim maintenance as mandated under Section 17-A of the Act.

Karachi
Dated:16.02.2023

JUDGE

Aadil Arab