

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Const. Petition No. S-229 of 2025

Petitioner : Mst. Samina W/o Suhail Ahmed,
Through Attorney Irfan Ali Abro
Represented by Mr. Abdul Basit Abro, Advocate

Respondent No.1 : Suhail Ahmed s/o Malhar Abro,
Through Mr. Muhammad Zubair Malik, Advocate

Date of hearing : 16.10.2025
Date of Judgment : 06.11.2025

ORDER

KHALID HUSSAIN SHAHANI, J.– The petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, challenging the order dated 19.08.2025 passed by the learned Family Judge, Sukkur in Family Suit No. 202 of 2024 (Re: Mst. Samina Vs. Suhail Ahmed), whereby the learned Family Court allowed the application under Section 15 of the Family Courts Act, 1964 filed by respondent No.1 for summoning of plaintiff as witness.

2. The brief facts giving rise to the filing of this constitutional petition, as gleaned from the record, are that the petitioner filed Family Suit No.202 of 2024 before the Family Judge, Sukkur on 04.11.2024 seeking recovery of maintenance, dower, and dowry articles. The petitioner's case is that her marriage with respondent No.1 was solemnized on 26.03.2022 according to *Shariat-e-Muhammadi* with the consent of both families, and the Haq Mehar was fixed at half *Tola* of gold in shape of golden ornaments which remains unpaid. After the *Rukhsati*, the petitioner started to live with respondent No.1 at his house in joint family system. No issue was born out of the wedlock. The petitioner alleges that after some period of marriage, the attitude of respondent No.1 became very harsh towards her, and he started to inflict mental and physical torture and misbehaved with her on every petty domestic affair. Despite this conduct, she continued residing with respondent No.1, but suddenly in the month of January 2023, she was driven out by respondent No.1 after maltreating her from his house in simple

three clothes, and she came to the house of her brother Irfan Ali at Sukkur, where she is presently residing. Since then, respondent No.1 has never tried to maintain her or pay any amount to her. After admission of the suit and service of summons, respondent No.1 appeared and filed a written statement denying the plaintiff's allegations. On 11.01.2025, pre-trial proceedings were held, but no settlement could be reached between the parties, hence issues were framed. The petitioner filed an application seeking to reframe, settle, amend and strike off Issue No. 2, which was partly allowed, and on 05.04.2025 the learned trial court re-framed issue.

3. On 29.01.2025, the petitioner filed an application for permission to appear through attorney under Section 18 of the Family Courts Act, 1964, which was allowed in the interest of justice. Thereafter, the witness/attorney of the plaintiff namely Irfan Ali and witnesses Ali Raza and Imran filed their affidavits-in-evidence, and copies were supplied to the defendant's side. Respondent No.1 then filed an application under Section 15 of the Family Courts Act, 1964 for summoning of plaintiff as a witness, contending that: (a) Section 18 of FCA 1964 only allows representation through agent but does not permit appearance as a witness; (b) the plaintiff is not a Pardah Nasheen lady; (c) cross-examination upon plaintiff is an inalienable right of the defendant; (d) the attorney is a Police Man who unlawfully filed the suit without consent of plaintiff; (e) there is a specific issue framed by the court regarding whether the plaintiff is medically fit and failed to perform marital obligation, therefore cross-examination of the plaintiff is essential.

4. The learned Family Judge, Sukkur, vide impugned order dated 19.08.2025, allowed the application to the extent that the plaintiff shall be required to appear for the purpose of recording her evidence, while her appearance shall be exempted for all subsequent proceedings and her attorney shall continue to represent her. The learned Judge observed that the defendant's

request for plaintiff's direct appearance for purpose of recording evidence is reasonable and cogent, given the nature of the issues at hand, particularly regarding plaintiff's fitness and performance of marital obligations.

5. Being aggrieved and dissatisfied with the impugned order dated 19.08.2025, the petitioner has approached this Court contending, inter alia, that: (i) the impugned order is against law and facts; (ii) it is without applying judicious mind; (iii) the learned trial court committed gross illegality; (iv) the impugned order is suffering from legal infirmities; (v) being a *Pardah Nasheen* lady, she filed special power of attorney and no objection was raised by defendant at that time; (vi) the defendant with malafide intention to disgrace, humiliate and insult the plaintiff filed the application; (vii) the burden of proof on Issue No.2 is upon the defendant; (viii) the learned trial court did not consider the case law cited (2002 CLC 1748); (ix) the Family Court lacks jurisdiction to frame Issue No.2 regarding medical fitness.

6. Learned counsel for the petitioner has submitted that the impugned order dated 19.08.2025 is contrary to law and the established principles governing representation through attorney under the Family Courts Act, 1964. It has been contended that the petitioner, being a *Pardah Nasheen* lady, was permitted by the learned trial court vide order dated 29.01.2025 to appear through her attorney under Section 18 of the Family Courts Act, 1964. At that time, no objection was raised by respondent No. 1 either when the power of attorney was filed or when the affidavit-in-evidence was filed through the attorney. It has been argued that respondent No.1, with malafide intention and in order to disgrace, humiliate and insult the plaintiff/petitioner, filed the application under Section 15 of the Family Courts Act, 1964. The learned counsel has emphasized that the learned trial court framed Issue No.2 on 05.04.2025 as "*Whether the plaintiff is not medically fit and failed to perform marital obligation? OPD*" and placed the burden/onus of proof upon the shoulder of respondent No.1. Instead of

discharging his burden and proving his claim, respondent No. 1 filed the application under Section 15 with the malafide intention to call the plaintiff as a witness. The learned counsel has placed reliance on the case law, wherein this Court held that where a plaintiff was represented by her father who was her authorized agent and appeared in the family court as a special attorney, and he was fully conversant with the relevant case, the family court was not required to draw adverse presumption/inference due to non-appearance of the plaintiff in the witness box. It has further been contended that the Family Court lacks jurisdiction to frame Issue No.2 regarding medical fitness of the plaintiff, as Section 5 of the Family Courts Act, 1964 read with Part-I of the Schedule provides for specific matters falling within the exclusive jurisdiction of the Family Court, which does not include determination of medical fitness. The learned counsel has prayed that the impugned order dated 19.08.2025 be set aside and the plaintiff be allowed to proceed with her suit through her special attorney.

7. Having heard the learned counsel for the petitioner and having examined the record with able assistance the threshold question that requires determination is whether this constitutional petition is maintainable when an alternate statutory remedy is available to the petitioner under the Family Courts Act, 1964. The constitutional jurisdiction vested in this Court under Article 199 of the Constitution is extraordinary in nature and is to be exercised sparingly and with great circumspection. The fundamental principle governing the exercise of writ jurisdiction is that it may be invoked only when no other adequate and efficacious remedy is provided by law

8. The Honourable Supreme Court of Pakistan in *Ch. Muhammad Ismail vs. Fazal Zada* (PLD 1996 SC 246) has explicitly held that the jurisdiction conferred on the High Court under Article 199 is of extraordinary nature and is to be exercised sparingly, and the High Court must be specially cautious in exercising its constitutional jurisdiction when other adequate remedy is available to the party invoking that jurisdiction.

9. In *Mumtaz Ahmed and another vs. The Assistant Commissioner and another* (PLD 1990 SC 1195), the Supreme Court established the cardinal principle that petitioners should not approach the High Court without first exhausting the other remedies provided in law in the hierarchy of forums, and a constitutional petition filed prematurely could be dismissed on that ground alone. In the present case, the impugned order dated 19.08.2025 is an interlocutory order passed during the pendency of Family Suit No.202 of 2024. The order directs the plaintiff to appear for the purpose of recording her evidence while exempting her appearance for all subsequent proceedings. The Family Suit itself is pending adjudication before the learned Family Judge, Sukkur, and is at the stage of recording evidence.

10. Section 14(3) of the Family Courts Act, 1964 provides that no appeal shall lie regarding the interlocutory order. This indicates that the legislature has consciously excluded interlocutory orders from the appellate jurisdiction, thereby impliedly providing that such orders are to be challenged, if at all, at the time of challenging the final judgment or decree.

11. Furthermore, the petitioner has the remedy to comply with the impugned order, record her evidence, and if ultimately aggrieved by the final judgment or decree in the Family Suit, to prefer an appeal before this Court under Section 14 of the Family Courts Act, 1964. At that stage, all grievances including those relating to the impugned interlocutory order can be effectively raised and adjudicated. However, this Court is conscious of the principle that the mere availability of an alternative remedy does not render a writ petition "not maintainable," but it may provide grounds for the Court to decline to "entertain" the petition. There exists a fine but real distinction between "maintainability" and "entertainability" of a writ petition. In the present case, even assuming that the petition is technically maintainable, this Court is not inclined to entertain it for the following reasons:

- Firstly** *The impugned order is an interlocutory order which does not finally determine the rights of the parties.*
- Secondly** *The Family Suit is pending at the stage of evidence, and the final outcome of the suit is yet to be determined.*
- Thirdly** *Any prejudice, if caused by the impugned order, can be effectively remedied in the appellate proceedings after the final judgment.*
- Fourthly** *Entertaining constitutional petitions against every interlocutory order would lead to multiplicity of proceedings and would defeat the very purpose of expeditious disposal of family matters envisaged under the Family Courts Act, 1964. This Court is, therefore, of the considered view that in the presence of an adequate remedy available to the petitioner by way of appeal after the final judgment, this constitutional petition should not be entertained at this interlocutory stage.*

12. Notwithstanding the above, even on merits, this Court finds that the impugned order has been passed by the learned Family Judge in exercise of statutory jurisdiction conferred under Section 15 of the Family Courts Act, 1964, and carries statutory value.

13. Section 15 of the Family Courts Act, 1964 provides that the Family Court may, at any stage of a suit or proceedings, summon any person as a witness, or examine any person in attendance though not summoned as a witness, or require the production or inspection of any document or other thing, or recall a witness. A careful perusal of the impugned order dated 19.08.2025 reveals that it is a well-reasoned and speaking order. The learned Family Judge has considered the application filed by respondent No. 1 under Section 15 of the Family Courts Act, 1964, has heard the arguments of counsel for both parties, has perused the relevant documents, and has arrived at a reasoned conclusion.

14. The impugned order specifically records the following:

- i) *That counsel for respondent No. 1 has moved an application asserting that plaintiff did not appear in person but submitted her affidavit-in-evidence through her attorney, and that he has right to cross-examine the plaintiff directly, particularly on the issues concerning her medical fitness and performance of marital obligations*
- ii) *That plaintiff's counsel has opposed the application, arguing that attorney was duly permitted by the Court to represent plaintiff and that no objections were raised by the defendant's side at the time affidavit was filed, and has cited case law of 2002 CLC 1748;*
- iii) *That upon hearing arguments and perusing relevant documents, it is clear that the Court has framed an issue regarding plaintiff's fitness and her performance of marital obligations based on pleadings of parties;*

- iv) *That the defendant's request for plaintiff's direct appearance for purpose of recording evidence is reasonable and cogent, given the nature of the issues at hand;*
- v) *That in light of above, the application is allowed to the extent that plaintiff shall be required to appear for purpose of recording her evidence, however, her appearance shall be exempted for all subsequent proceedings, and her attorney shall continue to represent her in the matter;*
- vi) *That the case law cited by plaintiff's counsel, while relevant, does not align with specific circumstances of the case.*

15. The above demonstrates that the learned Family Judge has not acted arbitrarily or capriciously, but has properly applied her judicial mind to the issues involved. The order is based on appreciation of the pleadings, the issues framed, the nature of the dispute, and the rights of the part. Significantly, the impugned order has addressed the matter on merits and has balanced the rights of both parties. On one hand, it has required the plaintiff to appear for recording her evidence, particularly in view of Issue No. 2 regarding her medical fitness and performance of marital obligations, which is a specific issue framed based on the defendant's pleadings. On the other hand, it has exempted her appearance for all subsequent proceedings and has permitted her attorney to continue to represent her, thereby addressing the concern regarding her status as a Pardah Nasheen lady.

16. It is well-settled that when an order has been passed after adjudication on merits, and the order reflects proper application of mind and is based on relevant considerations, such an order carries statutory value and cannot be disturbed in constitutional jurisdiction merely because a party disagrees with the conclusions reached.

17. In *Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat Peshawar and others vs. Shah Faisal Wahab* (2023 SCMR 1642), the Honourable Supreme Court held that findings recorded by statutory authorities based on appreciation of matters before them cannot be interfered with in constitutional jurisdiction unless shown to be perverse or based on no material. In the instant case, the learned Family Judge has exercised the jurisdiction vested

in her under Section 15 of the Family Courts Act, 1964, which empowers the Court to summon any person as a witness at any stage of proceedings. The power has been exercised judiciously, keeping in view the nature of the issues framed, particularly Issue No. 2 which specifically relates to the plaintiff's medical fitness and performance of marital obligations.

18. This Court finds that the impugned order represents a reasoned decision arrived at after consideration of all relevant factors. The order has addressed the controversy on merits and has decided the matter in accordance with applicable legal provisions. This Court finds no jurisdictional defect, patent illegality, or material irregularity in the impugned order which would warrant interference in constitutional jurisdiction.

19. The petitioner has alleged that the impugned order suffers from irregularities and illegalities. This Court has carefully examined these contentions and finds them to be without substance. The petitioner contends that being a Pardah Nasheen lady, she was permitted to appear through attorney under Section 18 of the Family Courts Act, 1964, and therefore should not be required to appear for recording evidence. Section 18 of the Family Courts Act, 1964 provides:

"Any party to a suit or proceedings before a Family Court may appear in person or through a pleader or may be represented by an authorized agent approved by the Court."

20. A plain reading of Section 18 shows that it relates to appearance and representation before the Court, including for presenting arguments and participating in proceedings. However, it does not expressly exclude or prohibit the Court from summoning a party as a witness under Section 15 of the Act.

21. Section 15 of the Family Courts Act, 1964 provides:

"The Family Court may, at any stage of a suit or proceedings, summon any person as a witness, or examine any person in attendance though not summoned as a witness, or require the production or inspection of any document or other thing, or recall a witness."

22. The power under Section 15 is distinct from the provision under Section 18. While Section 18 permits representation through an authorized agent for purposes of conducting the case, Section 15 empowers the Court to summon any person, including a party, as a witness for purposes of recording evidence. The learned Family Judge has rightly distinguished between these two provisions. The impugned order has permitted the petitioner to continue to be represented by her attorney for all purposes except for recording her evidence. This is a judicious exercise of discretion which balances the right of the petitioner to be represented through her attorney (which right has been duly recognized and protected) with the right of respondent No.1 to cross-examine the plaintiff on specific issues, particularly Issue No.2 regarding medical fitness and performance of marital obligations.

23. Furthermore, the impugned order notes that the petitioner neither in her plaint nor in her affidavit-in-evidence has specifically stated that she is a Pardah Nasheen lady. While the application under Section 18 was allowed in the interest of justice, the learned Family Judge has found it reasonable and cogent to require the plaintiff's appearance for recording evidence, given the specific nature of Issue No.2

24. The petitioner contends that Issue No.2 places the burden of proof on respondent No.1, and therefore respondent No.1 should discharge his burden instead of calling the plaintiff as witness. This contention is misconceived. The fact that the burden of proof on an issue lies on a particular party does not preclude that party from seeking to cross-examine the opposite party. In fact, cross-examination of the opposite party is a valuable tool for discharging the burden of proof. If respondent No.1 has alleged in his written statement that the petitioner is not medically fit and has failed to perform marital obligations, he is entitled to test this allegation through cross-examination of the petitioner, who alone can depose about her medical condition and performance of marital

obligations. The principle of natural justice and fair trial requires that each party should have the opportunity to present evidence and to cross-examine witnesses of the opposite party. The right to cross-examination is a valuable right and cannot be lightly taken away'

25. The petitioner contends that respondent No. 1 filed the application under Section 15 with malafide intention to disgrace, humiliate and insult the plaintiff. This Court finds no basis for this allegation. The application under Section 15 has been filed in the regular course of proceedings at the stage of evidence. The defendant has a legitimate right to seek cross-examination of the plaintiff on material issues, particularly when a specific issue has been framed regarding the plaintiff's medical fitness and performance of marital obligations. The mere fact that the defendant has exercised his legal right cannot be characterized as madeified

26. The petitioner has relied upon the case law reported as 2002 CLC 1748, which has been duly considered by the learned Family Judge in the impugned order. However, the learned Judge has rightly observed that while the case law is relevant, it does not align with the specific circumstances of the present case. In 2002 CLC 1748, the issue was whether adverse inference could be drawn due to non-appearance of the plaintiff in the witness box when she was represented by her authorized agent/attorney. The Honourable High Court held that where the authorized agent was fully conversant with the relevant facts of the case, no adverse presumption should be drawn due to non-appearance of the plaintiff.

27. However, the present case is distinguishable. Here, the learned Family Judge has not drawn any adverse inference against the petitioner. Rather, the Court has exercised its power under Section 15 to summon the plaintiff as a witness for recording her evidence, particularly in view of the specific Issue No. 2 regarding her medical fitness and performance of marital obligations. These are

matters which are within the personal knowledge of the plaintiff and can be best deposed by her personally.

28. Moreover, the impugned order has balanced the interests of both parties by requiring the plaintiff's appearance only for recording evidence while exempting her from appearance in all subsequent proceedings and permitting her attorney to continue to represent her. This approach is consistent with the principles of natural justice and fair trial.

29. The petitioner contends that the Family Court lacks jurisdiction to frame Issue No.2 regarding medical fitness of the plaintiff, as this falls beyond the matters specified in Part I of the Schedule to the Family Courts Act, 1964. This contention is without merit. Section 5 of the Family Courts Act, 1964 provides that subject to the provisions of Muslim Family Laws Ordinance, 1961, and the Conciliation Courts Ordinance, 1961, the Family Court shall have exclusive jurisdiction to entertain, hear and adjudicate upon the matters specified in Part-I of the Schedule, which includes dissolution of marriage, dower, maintenance, restitution of conjugal rights, and other related matters.

30. In the present case, the Family Suit itself is for recovery of maintenance, dower and dowry articles, which are matters specifically enumerated in Part I of the Schedule. Issue No. 2 has not been framed as an independent cause of action, but as an issue arising out of the pleadings in the suit for maintenance. The defendant has specifically pleaded in his written statement that the plaintiff is not medically fit and has failed to perform marital obligations. During the pre-trial proceedings held on 11.01.2025, the defendant made these assertions, which the plaintiff refuted. Based on these pleadings, the learned Family Judge framed Issue No. 2.

31. It is well-established that issues are framed based on the pleadings of the parties. In 2013 YLR 1396 [Peshawar], it was held that issues must be framed on the basis of material propositions of law or fact which a party alleges and

which the opposite party denies. In the instant case, Issue No.2 has been properly framed based on the specific allegations made by the defendant in his written statement and during pre-trial proceeding. Furthermore, the medical fitness and performance of marital obligations are relevant considerations in a suit for maintenance and restitution of conjugal rights. If the defendant has raised a specific defense that the plaintiff was not medically fit or failed to perform marital obligations, the Family Court has jurisdiction to enquire into such defense in the context of adjudicating the claim for maintenance.

32. The petitioner's application to strike off Issue No.2 was considered by the learned Family Judge vide order dated 05.04.2025, wherein after hearing arguments and perusing the record, the Court denied the request, observing that the defendant in his written statement and during pre-trial proceedings claimed that the plaintiff failed to fulfill her marital obligations, which necessitated the framing of Issue No.2, and that the burden of proof regarding this issue lies with the defendant. That order has not been challenged and has attained finality. The petitioner cannot now be permitted to collaterally challenge the framing of Issue No.2 through this constitutional petition against the impugned order dated 19.08.2025.

33. Upon meticulous scrutiny of the record, this Court finds that the impugned order does not suffer from any irregularity, illegality, or jurisdictional defect warranting interference. The learned Family Judge has acted within the jurisdiction vested in her under Section 15 of the Family Courts Act, 1964, has considered the contentions of both parties, has applied her judicial mind, and has passed a reasoned order balancing the rights and interests of both parties.

34. This Court has carefully examined the impugned order and the entire record of proceedings before the Family Court, and is satisfied that the impugned order has been passed after proper adjudication on merits. The impugned order reflects that the learned Family Judge has:

- i) *Carefully considered the application filed under Section 15 and the contentions raised by both parties; CamScanner-10-22-2025-14.41.pdf*
- ii) *Heard the arguments of counsel for both sides;*
- iii) *Perused the relevant documents and the issues framed in the suit;*
- iv) *Applied her mind to the nature of the dispute and the specific issues requiring determination, particularly Issue No. 2 regarding medical fitness and performance of marital obligations*
- v) *Considered the case law cited by the petitioner's counsel;*
- vi) *Balanced the rights of both parties by requiring the plaintiff's appearance for recording evidence while exempting her from appearance in all subsequent proceedings;*
- vii) *Provided reasons for arriving at the conclusion that the defendant's request is reasonable and cogent given the nature of the issues at hand;*
- viii) *Passed a speaking and reasoned order*

35. The order does not suffer from non-application of mind, perversity, arbitrariness, or any jurisdictional error. The learned Family Judge has properly exercised her jurisdiction under Section 15 of the Family Courts Act, 1964 and has not acted in a manner that is capricious or without jurisdiction.

36. The Honourable Supreme Court in *Anjuman Fruit Arhtian and others vs. Deputy Commissioner, Faisalabad and others* (2011 SCMR 279) has held that controversial questions of law and facts which can only be resolved on the basis of evidence cannot be decided in exercise of constitutional jurisdiction. The impugned order in the present case is an interlocutory order passed in exercise of statutory jurisdiction under Section 15, and does not involve any complicated or controversial question of law requiring examination in constitutional jurisdiction. This Court is satisfied that the learned Family Judge has discharged her statutory functions in accordance with law. The impugned order is a result of proper adjudication and reflects satisfaction of the Court based on materials placed before it. No case for interference has been made out.

37. Even assuming that this Court has jurisdiction to entertain this petition, the exercise of constitutional jurisdiction is discretionary in nature. This Court must exercise this discretion judiciously, keeping in view the facts and circumstances of each case, the availability of alternative remedies, the nature of

the impugned order, and the principles of equity and justice. In the present case, multiple factors weigh against the exercise of discretion in favor of the petitioner: Firstly, the impugned order is an interlocutory order passed during the pendency of the Family Suit, and does not finally determine the rights of the parties. Secondly, the petitioner has an adequate remedy to challenge the final judgment, if aggrieved, by way of appeal under Section 14 of the Family Courts Act. Thirdly, the petitioner has not demonstrated any jurisdictional error or patent illegality in the impugned order. Fourthly, the impugned order is a judicious exercise of discretion by the learned Family Judge which balances the rights of both parties. Fifthly, the impugned order requires the plaintiff to appear only for recording her evidence while exempting her from all subsequent proceedings and permitting her attorney to continue to represent her, which is a reasonable and balanced approach. Sixthly, entertaining constitutional petitions against every interlocutory order would lead to multiplicity of proceedings and delay in final disposal of family matters, which would defeat the legislative intent of expeditious disposal under the Family Courts Act, 1964.

38. The balance of convenience and the interests of justice do not favour interference with the impugned order at this stage. The proper course is for the petitioner to comply with the impugned order, record her evidence before the Family Court, and if ultimately aggrieved by the final judgment, to prefer an appeal in accordance with law. This Court is, therefore, not inclined to exercise its discretion in favor of the petitioner in the facts and circumstances of this case.

39. This Court notes that the impugned order has been passed by Ms. Sana Abbas Dashti, learned Family Judge, Sukkur. For completeness, this Court deems it necessary to observe that the administration of justice in Pakistan is gender-neutral, and all judicial officers, irrespective of gender, exercise the same jurisdiction and authority conferred upon them by law. Women judges represent a significant and valuable component of the judiciary in Pakistan, particularly in

Family Courts and subordinate courts, and their orders carry the same legal weight, force, and authority as those passed by male judges. Article 25 of the Constitution guarantees equality before law and equal protection of law to all citizens, and mandates that there shall be no discrimination on the basis of sex. Any reference to the gender of a judicial officer is wholly irrelevant and immaterial to the determination of the legality, validity, correctness, or propriety of an order passed by such officer. Orders must be examined on the touchstone of law, jurisdiction, procedure, and merits, without any reference to or consideration of the gender of the judicial officer.

40. This Court places on record its appreciation for the valuable contribution of women judicial officers in the administration of justice in Pakistan, and reaffirms that their orders are entitled to the same respect, dignity, and legal effect as those of their male counterparts. The petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution, which empowers this Court to issue directions for enforcement of fundamental rights. However, a perusal of the petition reveals that the petitioner has not made out any case of violation of fundamental rights guaranteed under Chapter I of Part II of the Constitution. The impugned order directing the plaintiff to appear for recording her evidence does not infringe upon any constitutional right of the petitioner, nor does it suffer from any constitutional invalidity. The dispute raised in this petition pertains to interpretation and application of provisions of the Family Courts Act, 1964, which are statutory in nature.

41. The Honourable Supreme Court in PLD 2007 SC 52 has held that under Article 199(1) (a) of the Constitution, jurisdiction of the High Court can be invoked by an aggrieved person who has suffered a legal grievance, but a person invoking constitutional jurisdiction has to establish that any of his/her legal or fundamental rights guaranteed under the Constitution has been violated. In the instant case, the petitioner has not been able to demonstrate how the impugned

order violates any provision of the Constitution or infringes upon any fundamental right guaranteed thereunder. The grievance raised is essentially statutory in nature pertaining to interpretation of Sections 15 and 18 of the Family Courts Act, 1964, and should be pursued through statutory remedy.

42. Having considered the submissions of the learned counsel for the petitioner, having examined the relevant statutory provisions, and having perused the case law, this Court has arrived at the following conclusions:

- Firstly:** *This constitutional petition is not entertainable in view of the availability of an adequate statutory remedy by way of appeal under Section 14 of the Family Courts Act, 1964 after the final judgment in Family Suit No. 202 of 2024.*
- Secondly:** *The impugned order dated 19.08.2025 is an interlocutory order which does not finally determine the rights of the parties, and constitutional jurisdiction should not ordinarily be invoked against interlocutory orders when the suit itself is pending.*
- Thirdly:** *The impugned order has been passed by the learned Family Judge in exercise of statutory jurisdiction under Section 15 of the Family Courts Act, 1964.*
- Fourthly:** *The impugned order is a speaking and reasoned order which reflects proper adjudication after due application of mind and consideration of the contentions of both parties.*
- Fifthly:** *The impugned order does not suffer from any jurisdictional defect, patent illegality, or material irregularity warranting interference in constitutional jurisdiction*
- Sixthly:** *The impugned order has balanced the rights of both parties by requiring the plaintiff's appearance for recording evidence while exempting her from appearance in all subsequent proceedings and permitting her attorney to continue to represent her.*
- Seventhly:** *No violation of fundamental rights has been demonstrated.*
- Eighthly:** *Even on the assumption that jurisdiction exists, this is not a fit case for exercise of discretionary constitutional jurisdiction.*
- Ninthly:** *The balance of convenience and interests of justice favor dismissal of this petition.*

43. In view of the detailed discussion above and for the reasons recorded hereinabove, this Court is of the considered opinion that this constitutional petition lacks merit and is liable to be dismissed. The extraordinary jurisdiction under Article 199 of the Constitution is intended to provide an expeditious remedy in cases of patent illegality, jurisdictional error, or violation of fundamental rights, not to interfere with interlocutory orders passed by statutory authorities in exercise of jurisdiction vested in them by law. The petitioner has

adequate remedy by way of appeal after the final judgment in the Family suit. This Court is satisfied that the learned Family Judge has acted within her jurisdiction, has followed due process of law, has considered the contentions of both parties, has afforded adequate opportunity of hearing, and has arrived at a reasoned decision in accordance with law. The impugned order carries statutory value and cannot be interfered with in the absence of any jurisdictional error, patent illegality, or violation of fundamental rights. Notwithstanding the above, even if the petition were assumed to be entertainable, no case for exercising discretion in favor of the petitioner has been made out on merits. The petitioner has failed to demonstrate any error of law or patent illegality in the impugned order that would warrant interference by this Court in its constitutional jurisdiction.

44. In view of the foregoing detailed reasons and for the grounds discussed above, this Constitution Petition No. S-229 of 2025 stands dismissed as being not entertainable with all pending applications, if any. The impugned order dated 19.08.2025 passed by the learned Family Judge, Sukkur in Family Suit No.202 of 2024 is maintained and upheld. The petitioner is directed to appear before the learned Family Judge, Sukkur on the date fixed for recording of evidence in compliance with the impugned order dated 19.08.2025. The petitioner is at liberty to pursue her remedy by way of appeal provided under Family Courts Act, 1964 against the final judgment or decree in Family Suit No.202 of 2024, if so advised. There shall be no order as to costs.

J U D G E