

Judgment Sheet
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No.S-1152 of 2025

[*Muhammad Ghufraan Haque v. Mst. Nazia Akbar & others*]

Petitioner : Through Mr. Muhammad Ali, Advocate

Date of Hg. & order : 24-10-2025.

ARSHAD HUSSAIN KHAN, J.- The petitioner, through the instant Constitutional Petition, has assailed the order dated **11.10.2025** passed by the learned Civil/Family Judge & Judicial Magistrate-X, Malir, Karachi, whereby interim maintenance for his two minor children was fixed at Rs.50,000/- per month for each minor, till decision of the suit.

2. Briefly, the facts giving rise to the present petition are that the respondents/plaintiffs instituted *Family Suit No.78 of 2025* for maintenance, accompanied by an application under Section 17-A of the *West Pakistan Family Courts Act, 1964*, against the petitioner/defendant. The case of the respondents is that respondent No.1, along with her two minor children, namely (i) Muhammad Hashim Haque, aged about 8 years, and (ii) Muhammad Hashir Haque, aged about 4 years, was ousted from the matrimonial home by the petitioner/defendant and, since then, has been residing separately. It is asserted that respondent No.1 has been maintaining herself and the said minors (respondents No.2 and 3 herein), whereas the petitioner/defendant, who is employed as a Software Tester in Austria and earning more than Rs.700,000/- per month, has failed to pay any maintenance to the minors. Respondent No.1, therefore, claimed entitlement to *interim maintenance* under Section 17-A of the aforesaid Act till final disposal of the suit.

3. The petitioner/defendant, upon being served, filed his written statement along with objections to the application under Section 17-A. However, after hearing the learned counsel for the parties, the learned Family Judge, vide order dated *11.10.2025*, allowed the interim maintenance application filed by the respondents, which order is impugned in the present petition.

4. Learned counsel for the petitioner contended that the impugned order passed by the Trial Court is illegal, arbitrary, and contrary to the settled principles of law. It is contended that the learned Trial Court acted

with material irregularity by mis-recording the statement of the petitioner's counsel, who never consented to the amount claimed by the respondents but only sought a reasonable assessment. The impugned order, passed without considering the petitioner's financial constraints and living expenses abroad, reflects a mechanical exercise of discretion. It is further urged that the Court failed to evaluate the petitioner's earning capacity, the dependents' reasonable needs, and the standard of living, resulting in an excessive and unjust order causing financial hardship. The impugned order, being arbitrary and beyond the scope of Section 17-A of the West Pakistan Family Courts Act, 1964, warrants interference by this Court to prevent miscarriage of justice.

5. Heard the learned counsel for the petitioner and perused the material available on record.

6. From perusal of the record, it appears that the impugned order dated **11.10.2025**, passed by the learned Family Judge on an interlocutory application under *Section 17-A of the West Pakistan Family Courts Act, 1964* (as amended by the Family Courts [Amendment] Ordinance, 2002), contains the following relevant observations:

1. *The plaintiff No.01 (hereinafter called plaintiff) named above filed the instant suit for Maintenance along-with application U/s 17-A of West Pakistan Family Courts Act, 1964, against the defendant. The defendant filed written statement annexed with objection on 17-A through his learned counsel.*
2. *The learned counsel argued that the plaintiff ousted by defendant with minors and since then plaintiff and minors are residing separately and plaintiff is maintaining minors and defendant did not pay maintenance to minors and plaintiff is entitled for interim maintenance till disposal of the suit and minors are under care and custody of plaintiff. The learned Counsel for plaintiffs prayed that the interim maintenance of plaintiffs may be fixed and defendant may be directed to deposit the same before this Court.*
3. *The defendant's counsel argued that as defendant being father no doubt is under obligation to maintenance of minors, however the financial status of defendant may be considered while deciding the interim maintenance. The learned defendant's counsel states that he has no objection if interim maintenance of minor fixed Rs.50,000/- per month till disposal of suit.*
4. *No doubt the interim maintenance provided u/s 17-A of W.P. Family Court Act, 1964 could be fixed at any stage. The father is the sole responsible to provide the maintenance to his children whatever the circumstances could be.*
5. *In view of the above interim maintenance of each minor fixed @ Rs.50,000/- per month and defendant is hereby directed to provide interim maintenance to each minor @ Rs.50,000/- per month till decision of the suit. The defendant is further directed to deposit the interim maintenance amount without fail by the 10th of every English calendar month before this Court."*

[Emphasis supplied]

7. It may be observed that the impugned order dated **11.10.2025**, passed by the learned Civil/Family Judge, Malir, Karachi, is in the nature of an *interlocutory order* concerning fixation of interim maintenance. Reliance in this regard is placed on *Abbas Ahmad v. Mst. Ayesha Aziz* [**2009 CLC 980**], wherein it was held that an order granting interim maintenance under Section 17-A is purely interlocutory. Likewise, in *Zafar Hussain v. Begum Farzana Nazli* [**PLD 2004 Lahore 349**], it was held that the Family Court is empowered at any stage of the proceedings to fix interim maintenance, and the father is bound to deposit such amount from the date of the order.

8. The impugned order neither finally determines the lis between the parties nor concludes their substantive rights. It is a settled principle that *interlocutory orders*, unless patently without jurisdiction or suffering from manifest illegality, are not amenable to constitutional jurisdiction. The High Court, while exercising jurisdiction under *Article 199 of the Constitution*, does not act as an appellate forum to re-appraise findings of fact or substitute its own assessment regarding interim maintenance. Furthermore, *Section 17-A* explicitly mandates the Family Court to fix interim maintenance at the first date of appearance of the defendant. The record reflects that the impugned order, being interim in nature, was passed keeping in view the admitted financial position of the petitioner as well his counsel's expressed no objection. Thus, the learned Family Court has rightly exercised the jurisdiction vested in it and determined interim maintenance upon a tentative appraisal of the pleadings, the living standards of the parties, and the reasonable needs of the minors.

9. As regards the petitioner's grievance that the amount so fixed is excessive or unreasonable, it constitutes a disputed question of fact which necessarily requires evidence and cannot be adjudicated in constitutional jurisdiction. The impugned order being tentative and subject to modification upon production of evidence, no illegality, perversity, or violation of natural justice is apparent on the face of the record. Learned counsel for the petitioner has also failed to point out any material irregularity or jurisdictional defect in the impugned order. It is well-settled that where no error of law or procedural defect is shown in arriving at a finding of fact, this Court cannot interfere merely because a different view may also be possible.

10. What has been discussed above, this court finds that the impugned order dated **11.10.2025** does not suffer from any legal infirmity or

jurisdictional error warranting interference. Accordingly, the petition stands **dismissed in *limine***, along with all pending applications.

JUDGE