HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Constitutional Petition No.S-361 of 2025

Present: Justice Jawad Akbar Sarwana

Petitioner	:	Sarfaraz Ahmed s/o Bashir Ahmed Ansari Through Mr.Kaleem Ahmed Mirza, Advocate. Nemo.
Respondent	:	Mst.Zain Chudrigar w/o Sarfaraz Ahmed. Nemo.
Date of hearing	:	**04.11.2025**
Date of decision	:	**11.11.2025**
Date of reasons	:	**10.11.2026**

O R D E R

JAWAD AKBAR SARWANA, J.: Sarfaraz Ahmed s/o Bashir Ahmed Ansari, petitioner/father, impleaded as a defendant in Family Suit No.734 of 2023, filed by the plaintiff, Mst. Zain Chundrigar d/o Abdul Salam, respondent/mother, against him, has impugned the interim maintenance order dated 19.09.2023, passed by the learned Family Judge, Hyderabad, in the said Family Suit, concerning the payment of interim maintenance at the rate of Rs.15,000/- per month to their minor, Irha Amna.

2. Counsel for the petitioner/father contended that the impugned order dated 19.09.2023 is “without lawful authority” and “of no legal effect” for the reason that the learned trial Court has directed the petitioner/father to pay the interim maintenance of the minor, Irha Amna, at the rate of Rs.15,000/- per month, starting from the date of filing of the suit till further orders, without taking into consideration:

(i) the petitioner/father government job as a Scientific Research Officer at Tando Jam (in 2023);

(ii) no weightage was given to the petitioner/father's parents' medical conditions and expenses arising therefrom.

(iii) ignored the respondent/mother's financial status

3. Therefore, the Counsel for the petitioner/father argued that the quantum of the interim maintenance of Rs.15,000/- per month is/was fanciful and arbitrary, particularly when the amount arrived at by the Family Judge had not been scrutinised through evidence, and none of the points raised above was factored in the impugned Order. Therefore, the said Order was liable to be set aside under Article 199(1)(a)(ii) of the Constitution of the Islamic Republic of Pakistan, 1973 ("the 1973 Constitution").

4. Heard counsel. It is well-established now that a challenge to an interim maintenance order passed under Section 17-A of the Family Courts Act, 1964 in writ jurisdiction is maintainable only if it can be demonstrated that such an order defeats the cause of justice and/or perpetuates injustice, is void ab-initio, is fanciful, without jurisdiction or if it has attained the status of a final order. In the present case, the petitioner/father has challenged the interim maintenance fixed by the learned trial Court after almost two (2) years. The record reflects that after the passing of the impugned order dated 19.09.2023, the petitioner/father continued to pay maintenance regularly until 06.12.2024, whereafter, for the remaining period until the institution of this petition on 29.08.2025, he made payments on only four occasions and that too, the quantum of such monthly payments varied between Rs.8,000/- and Rs.10,000/-.

5. The petitioner/father provides no explanation for the above delay. Clearly, if such a concern were bona fide, the petitioner/father would not have waited almost 23 months before approaching this Court after regularly depositing the interim maintenance amount in the Court until 06.12.2024. Surprisingly, the petitioner/father has not even

claimed any change in circumstances in the intervening period. Instead, the petitioner/father has raised only legal grounds. The petitioner/father has disclosed in his Written Statement that he resides with his parents and that his government monthly salary in 2023 was close to Rs.100,000/-. The entire purpose of Section 17-A of the West Pakistan Family Court Act, 1964, is to ensure that while the trial proceedings are in process, the welfare of the minor is not jeopardised. Hence, the Courts have narrowed the grounds of challenge to an Order passed under Section 17-A of the West Pakistan Family Court Act, 1964. Clearly, the petitioner/father's pleas concerning affordability of tentatively fixing monthly maintenance at Rs.15,000/- per month will require evidence at trial, and the impugned Order cannot be assumed arbitrary. If the interim maintenance was so exorbitant and out of line, then the petitioner/father should not have been tardy in seeking relief and should not have waited almost 23 months before filing this petition. The petitioner/father's conduct does not inspire confidence, and in the above context, the Family Court's tentative assessment of maintenance at Rs.15,000/- appears reasonable.

6. A challenge to an order passed under Section 17-A of the West Pakistan Family Court Act, 1964, must be considered only in exceptional circumstances, as it directly affects the child's welfare during the pendency of the Family Suit. In the instant case, no extraordinary circumstances are made out to warrant review, modification, and/or intervention in the interim maintenance amount of Rs.15,000/- per month.

7. For the above reasons, and given the interim nature of the impugned Order, which is/was subject to final adjudication after recording evidence of the parties, I dismissed the writ petition vide my Short Order dated 11.11.2025, and the above are my reasons for dismissing the petition.

8. It is clarified that my observations are for the purpose of deciding this petition and may not influence the outcome of this matter and/or prejudice the lower forum.

JUDGE

AHSAN K. ABRO