

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P No.S-89 of 2025.

Zeeshan Umar

v.

Mst. Neelam Munawar.

Petitioner : Zeeshan Umar through Mr. Altaf Sachal Awan,
Advocate.

Respondent : Mst. Neelam Munawar through M/s. Jaleel
Ahmed Memon & Syed Jan Muhammad
Bukhari, Advocates.

Date of hearing : 13.05.2025.

Date of Decision : 13.05.2025

JUDGMENT

Miran Muhammad Shah, J:- The petitioner impugns the findings of the learned Family Judge Nawabshah passed in Family Suit No.217 of 2024, whereby, respondent's application under Section 17-A of the Family Court Act, 1964 for fixation of interim maintenance was allowed.

2. The facts of the case in hand are that the respondent filed a Family Suit No.217 of 2024 before the learned Family Court Shaheed Benazirabad for maintenance & dissolution of marriage. The learned trial Court vide order dated 27.11.2024 fixed the interim maintenance of the minors at the rate of Rs.25,000/-each totaling to Rs.50,000/-, however, the petitioner impugned the said interim maintenance order passed under Section 17-A of the Act, 1964 before this Court.

3. The crux of arguments of learned counsel for the petitioner is that maintenance is to be fixed looking to the financial status of the father but the learned trial Court failed to appreciate this aspect and passed the impugned order, which may be set-aside and petition in hand may be allowed. While concluding his arguments, he placed his reliance upon case laws reported as 2021 CLC 1300.

4. On the other hand, learned counsel for respondent argued at some length and supported the impugned order and prayed for dismissal of the petition in hand. Relied upon case laws reported as 2022 MLD 945.

5. Heard & perused.

6. Heard counsels for the petitioner as well as respondent. The Constitution Petition involves family matter regarding interim maintenance of the children, which has come under the discussion. A very short controversy is involved, wherein it was argued that the learned Family Judge passed order on application U/s 17-A of West Pakistan Family Courts Act, 1964 filed by respondent (plaintiff), however, the main suit is still pending before learned trial Court. The petitioner through his counsel filed petition in hand and also prays before this Court that the maintenance amount is not affordable by the petitioner and may be reduced from initial order of the learned trial court i.e. Rs.25,000/- of each minor. The learned counsel for the petitioner in support of his arguments stated that the petitioner is working at a shop and unable to pay the maintenance amount so awarded by the learned trial Court as interim arrangement; the learned trial Court has to pass an interim order by considering the financial position of father, however, the petitioner is ready to pay Rs.10,000/- maintenance. Counsel for the respondent, however, on the other hand has stated that such arguments of the petitioner are lame in nature and the learned trial court had rightly passed the order and has fixed the quantum of maintenance as Rs.25,000/- per month of the children, since the couple has already been pronounced divorce by way of khulla. In my opinion the welfare of the children no matter whose custody they are is a joint responsibility of both the parents, when the children are of school going age, they are to be provided good & proper education. The father cannot abrogate himself from the responsibility of supporting his children and cannot deny them, their required education expenses, therefore, I do not find any illegality or irregularity in the impugned order 27.11.2024 passed by the learned trial Court in Family Suit No.217 of 2024. With such observations, the above Constitution Petition in hand is hereby **dismissed**.

JUDGE