

IN THE HIGH COURT OF SINDH KARACHI

Const. Petition No. S-736 of 2025
Muhammad Faisal – v – Meha Fatima & Ors.

Date	Order with signature(s) of Judge(s)
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For orders as to the maintainability of petition.

02.12.2025.
Qazi Hifz ur Rehman, Advocate for the Petitioner.
Mr. Amir Saeed and Ms. Murk Nizam, Advocates for the Respondents.

ORDER

Nisar Ahmed Bhanbhro, J. Through this petition, petitioner has challenged the order dated 13.08.2025 passed by the Court of Family Judge Karachi (East) in Family Suit No.64 of 2025 (re: Mst. Meha Fatima .v. Muhammad Faisal) wherein learned trial Court by granting an application under Section 17-A of Family Courts Act, 1964 imposed an interim maintenance allowance @ Rs.50000/- per month against the petitioner towards the maintenance needs of the minor Elizeh Faisal.

2. Learned counsel for the petitioner contends that the petitioner is a salaried person earning Rs.73,969/- per month and is also responsible for supporting his parents; therefore, the fixation of interim maintenance at Rs. 50,000/- per month is beyond his financial capacity. He further contends that although the petitioner was receiving a stipend of 7,000 Yuan, it was limited to the duration of a three-year study program, and upon completion of the program the stipend would be discontinued. Hence, this amount cannot be treated as part of the petitioner’s regular income. He has volunteered to pay maintenance at the rate of Rs. 20,000/- per month and has prayed that the impugned order be set aside.

3. Learned counsel for the respondent submits that the petitioner, being the father, is solely responsible for the maintenance of the minor daughter, aged about four years, who requires quality education, particularly as both parents are well-educated and hold PhD degrees in their respective fields. He further contends that since the birth of the child, the petitioner has remained indifferent to her care and maintenance; therefore, no lenient view can be taken to modify the impugned order passed by the learned Trial Court. He also submits that the impugned order is interim in nature and subject to the final outcome of the suit. Moreover, he submits that the petition itself is not maintainable in law as an appeal is the appropriate remedy provided under the Family Courts Act, 1964. He therefore prays for dismissal of the petition. Learned AAG too supports the contention of counsel for respondents.

4. Heard arguments, perused the material available on record.

5. Maintenance of the minor is the sole obligation of the father, irrespective whether the mother is earning or not. Under the provisions of the Muslim Family Laws Ordinance, 1961 and the West Pakistan Family Courts Act, 1964, no fixed quantum of maintenance has been prescribed. However, Section 9 of the Muslim Family Laws Ordinance, 1961 provides that before approaching a court of law, the parties should approach the Chairman of the concerned Union Council for the constitution of an Arbitration Council to determine the proper quantum of maintenance allowance. Since parties hardly approach the Union Council for constitution of such an Arbitration Council, the courts determine the quantum of maintenance by considering the financial capacity of the father. In the present case, a perusal of the plaint reveals that the plaintiff/respondent asserted that the petitioner was employed with the National Engineering & Scientific Commission (NESCOM) as an Assistant Manager, earning a handsome salary of Rs. 1,30,000/- and in addition to that, he was also receiving a stipend of 7,000 Yuan per month, equivalent to Pakistani Rs.2,67,016/-. In rebuttal, the petitioner has placed on record a copy of his pay slip showing that he was receiving a salary of Rs. 73,969/-. Although this salary slip pertains to February 2025, no other document has been produced to establish that the petitioner was also earning any additional income as claimed.

6. Since this is an application for the grant of interim maintenance for a minor, which under Section 17-A of the Family Courts Act, 1964 is required to be decided on the very date of institution of the suit, it appears that the application was allowed on 13.08.2025, whereafter the instant petition was filed. Considering the peculiar circumstances of the case, and as no document except the petitioner's salary slip is available on record, the impugned order dated 13.08.2025 is modified. The amount of interim maintenance is reduced from Rs.50,000/- per month to Rs. 40,000/- per month. It is further asserted by the respondent that since the birth of the minor, not a single penny has been paid towards her maintenance. In these circumstances, the petitioner shall pay the maintenance allowance from December 2024 (the month in which the suit was instituted before the Trial Court) up to November 2025 in a single lump sum, and thereafter he shall continue to pay the monthly maintenance regularly. In case the petitioner fails to pay the maintenance allowance, the Trial Court shall be at liberty to recover the same as arrears of land revenue or by attachment of the petitioner's salary. If the petitioner fails to deposit the arrears of maintenance from the date of institution of the suit until November 2025, appropriate orders, including striking off the petitioner's defence, may be passed by trial Court. As regards the respondent's claim for past maintenance since the birth of the minor child, the Trial Court shall decide the same after framing issues and recording the evidence of the parties.

The instant petition stands disposed of in the above terms alongwith pending applications.

JUDGE

Karachi
Dated:02.12.2025
Approved for reporting.