

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

C.P.No.S-710 of 2026

Mr.Khurram Mughal.....v/s.....Mst.Naureen Mughal

& others

DATE

ORDER WITH SIGNATURE(S) OF JUDGE(S)

1.For hearing of CMA No.4992/2026

2.For hearing of main case.

Date of Hearing and Order: 11-08-2026

Petitioner: Through M/s Shahzeb Akhter Khan &
Hunnain Yaseen Junejo, Advocates.

Respondent No.1 to 3 Respondent No 1 Naureen Mughal in person
and for Respondents No 2 to 3 as their attorney
along with her son Bilal Mughal.

ORDER

Nisar Ahmed Bhanbhro, J. This case has a chequered history. The matter involves the maintenance and grant of Educational Expenses of Respondents No 2 & 3 who are daughters of Petitioner and Respondent No 1. The suit was instituted in the year 2023, wherein application for grant of interim maintenance under section 17 - A of the Family Courts Act, 1964 was filed, which was declined vide orders dated 05.09.2023, 09.09.2023 & 02.12.2025, thereafter, C.P.No.S-16 of 2026 was preferred by the Respondent

No.1, which too was disposed of by this Court vide order dated 11.05.2026 directing the trial Court to conclude the matter on merits. Respondent No 1 assailed the order of this Court and Family Court before Hon'ble Supreme Court of Pakistan through C.P.L.A. No.288-K/2026, wherein the Hon'ble Supreme Court has been pleased to pass the following consent order:-

"By consent it is agreed that the transfer application filed before the High Court is disposed of in pursuance of the order as is being passed hereunder. We have heard the petitioner No.1 who is appearing in person along with her son and counsel for the respondent. After detailed hearing it is agreed as under:-

- i) That the interim injunction application regarding maintenance of the daughters stands restored and order dismissing such application dated 02.12.2025 passed by the Family Judge is followed by order dated 11.05.2026 passed by the High Court are set aside, as agreed by petitioner and respondent's counsel and an order on such application shall be passed by the Family Court on the basis of material available on record in support of the application and the counter-affidavit/rejoinder, if any, within one week from the date of this order:*
- ii) We have been informed that the main case is pending for cross-examination of the attorney of the respondent/defendant in the suit for quite some time. The cross examination shall be completed within four weeks from the date of this order;*
- iii) The trial Court shall ensure that the order on the application for maintenance of the daughters shall be passed before the cross examination of the respondent;*
- iv) The trial Court shall make efforts to conclude the trial within eight weeks from the date of this order with intimation/progress to Registrar of the High Court.*

By consent instant petition is converted into disposed of in the above terms. to appeal and stands."

2. Learned Trial Court, in compliance to the order referred above, heard the parties and vide order dated 25.07.2026 (**impugned order**), directed the Petitioner to pay interim maintenance allowance @ Rs.150,000/- per month for each daughter in the account of plaintiff No.1 on or before the 14th day of each calendar month. Hence this petition.

3. Learned counsel for the petitioner contended that the impugned order dated 25.07.2026 is illegal and passed in clear violation of settled laws with regard to the payment of maintenance to major children. He contended that daughters namely Simran and Palwashy were major and earning their own income. He contended that the daughters are disobedient and are not on visiting terms with Petitioner, therefore Petitioner being father is not burdened to provide maintenance to them. He contended that for many a times, the Respondents No 2 & 3 have played with the respect and honor of family, behaved with arrogance, leveled false allegations and misbehaved grand-parents through written contents. He further contended that the Respondents No 2 & 3 were earning their own income in Canada and such an assertion was confirmed by their employer through e-mail. He contended that during the earlier rounds of litigation application for grant of interim maintenance were dismissed up to this Court and no fresh ground existed for grant of the said application. It is contended that the petitioner was also maintaining his parents and his income entirely depended upon working hours and was flexible in nature, therefore, fixation of Rs.150,000/- per month for each daughter was a harsh treatment. He contended that Respondent No 1 lodged false FIR, however the trial resulted in acquittal of petitioner, therefore, the present suit was

maintained claiming maintenance, which otherwise an act of extortion from the petitioner. He asserted that the evidence of the parties has been concluded, the petitioner submitted his affidavit in evidence, wherein the respondents did not turn up for cross-examination despite of availing several opportunities, therefore, their side to cross-examination was closed, and trial court instead of deciding the suit on merits, allowed the application under section 17- A. In support of his submissions, learned counsel placed reliance on the case of *Mukhtarul-Hassan Siddiqui... ..v/s... .. Judge Family Court, Rawalpindi & others* reported as **1994 CLC 1216**. Lastly he prayed to allow this petition.

4. Mr.Bilal Mughal, brother of the respondents Nos.2 and 3 (Ms.Simran Mughal and Ms.Palwashay Mughal) sought permission to assist the Court on behalf of his sisters and Respondent No 1, which was granted. He contended that his sisters were unmarried and they were pursuing their studies in Canada. He contended that their mother supported all siblings in pursuit of studies and not a single penny has been paid by the Petitioner since 2021. He contended that since maintenance has not been paid by the father/petitioner therefore under compelling circumstances Respondents No 2 & 3 were working in addition to pursuit of studies, but such an income cannot not deprive them from the maintenance due against father. He further submits that findings rendered by the learned trial Court and this Court in the earlier round have been set-aside by Hon'ble Supreme Court of Pakistan, through a consent order. He contended that presently the petitioner was earning an amount of Rs.17,00,000/- per month and was capable to pay the interim maintenance allowance fixed by the Court. He further contended that no material was placed on record to say that the respondent daughters were earning an income, therefore, at this stage, it

cannot be presumed that father stands absolved of his obligation to pay maintenance. He therefore prayed to dismiss the petition.

5. Heard arguments and perused the material available on record. On scanning of the record, it reveals that Trial Court in compliance of the directions contained under order dated 03.07.2026 passed by Honorable Supreme Court decided application for grant of interim maintenance.

6. The contention of Petitioner that daughters were disobedient and earned own income, thus he being father was not required to maintain them. Before embarking upon the determination of the petitioner's liability to maintain Respondents No 2 & 3, it would be advantageous to reproduce the relevant provision of Muhammad Law and other laws requiring the father to maintain his children. Section 370 of the Muhammadan Law, being relevant reads as under:

Section 370 (1): "A father is bound to maintain his sons until they have attained the age of puberty. He is also bound to maintain his daughters until they are married. But he is not bound to maintain his adult Sons unless they are disabled by infirmity or The fact that the children are in the custody of their mother during their infancy. (S. 352) does not relieve the father from the obligation of maintaining them (a). But the father is not bound to maintain a child who is capable, of being maintained out of his or her own property."

(MULLA'S MAHOMMEDAN LAW, HIDAYAT UL LAH (17TH EDITION))

7. From the plain reading of referred provisions it can be inferred that maintenance of unmarried daughters is responsibility of father, he cannot be absolved of such liability unless the daughters are either married or capable of their own earning. It further provides that father is not bound to

maintain the child, who is capable to be maintained of his or her own property. Though the word "child" in its widest sense may mean any son or daughter or any progeny yet, Sharia imposes that the child must be "unable to maintain itself". Normally a child, after attaining majority, would be physically in a position to maintain itself, for, it would then be capable of earning some kind of a livelihood. But this again is a question which will depend upon the status and circumstances of each individual family. Thus, although the section does not make any reference to the age of majority, it is a consideration which must inevitable be taken into account by the Court when deciding the question as to whether the child is or is not able to maintain itself, as such the daughter might be deprived of the right if she has already found suitable gainful employment and is in a position to maintain herself.

8. The questions whether the Respondents No 2 & 3 were under any gainful employment or they were disobedient required evidence, to be led before and appraised by Trial Court while deciding the final fate of the suit. However, for deciding an application for grant of interim maintenance, it is settled proposition by now that tentative assessment of the material on record should be done and made, and interim maintenance should be fixed keeping in view the financial and social status of the Father.

9. From perusal of the impugned order it transpired that the Trial Court while deciding the application under section 17-A, made a tentative assessment of the material on record, and granted interim maintenance of Rs 150,000 per month keeping in view the factors fixed for such determination. As such interference into such findings at this stage may prejudice the case of either side at trial, thus deliberations on merits are

avoided and left for decision by Trial Court at the time when assessment of evidence is required to be made.

10. Further, the Petitioner has disputed the observations of Trial Court with regard to the financial and marital status of Respondents No 2 & 3 and payment of maintenance through mother's bank accounts. The objections so raised, are tenable, thus the impugned order needs modification to the said extent and is also consented by Respondent No 1. Accordingly, the petitioner is directed to deposit maintenance allowance in the bank accounts of Respondents No 2 & 3 directly. Respondent No.1 shall submit bank account details of Respondents No 2 & 3 in the Trial Court within one week's time from today. As far as the educational, job and marital status of the Respondents No 2 & 3 is concerned, the petitioner is at liberty to produce such evidence before Trial Court, which shall be considered while deciding the final fate of the Suit.

11. It is expected that Trial Court shall conclude the case within Eight Week's time as directed by Hon'ble Supreme Court of Pakistan.

12. The case law relied upon by the Learned Counsel for the Petitioner is distinguishable under the facts and circumstances of the present petition and is applicable when Court appraises the evidence of parties.

13. This petitioner stands disposed of in the above terms. Office is directed to send copy of this order to Learned Trial Court for compliance.
5Learned MIT - II to ensure compliance.

Judge

nasir

Approved for reporting