

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**CP No.S-199 of 2024**

Shahid Shoukat Randhawa

.....

Petitioner

Vs.

Mst. Zuber Nayyer & others

.....

Respondents

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Mr. Ahteshamullah Khan advocate for petitioner .  
M/s. Shahab Sarki and Ghazali Shaikh, advocate for respondents

**Date of Hearings**

**: 29.08.2024, 02.09.2024**

**Date of Order**

**: 09.09.2024**

**ORDER**  
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**MUHAMMAD IQBAL KALHORO J:** Respondent No.1 (Mst. Zumer Nayyer) filed a Family Suit No.3387/2022 before the learned VIII-Civil / Family Judge East at Karachi, seeking maintenance of her and her two children, plus recovery of dowry articles, during substances of her marriage with petitioner, which was later on broken on pronouncement of divorce by the petitioner. During pendency of family suit, she filed an application u/s 17(a) of the Family Court Act, 1964, seeking interim maintenance. This application was decided vide order dated 22.03.2023 and the interim maintenance of plaintiff and her two children was fixed at Rs.40,000/- each total Rs.120,000/- per month.

2. Petitioner filed a review application against such order, which was dismissed. After dismissal of review application, respondent No.1 filed an application u/s 17(2) of Family Court Act, 1964 for striking off defence of the petitioner. This application was decided vide order dated 26.07.2023, the defence of the petitioner was struck off and the preliminary decree to the extent of aforesaid maintenance was passed. Petitioner challenged the preliminary decree in Family Appeal No.178/2023, which has been decided through impugned order dated 18.01.2024 up-holding findings of the appellate Court, hence this petition.

3. This case was partly heard on 29.08.2024, however, at the request of learned counsel for the petitioner, the same was adjourned to 02.09.2024. On 02.09.2024, Mr. Muhammad Ali Lakhani, advocate filed power on behalf of the petitioner and apprised the Court about ongoing negotiations between the parties for compromise and hence made a request for some time. Although the matter was partly heard, yet time was given and the case was fixed today at 11:00 a.m. Today, Mr. Muhammad Ali Lakhani, advocate and the previous advocate of petitioner Syed Hassan Mujtaba Abidi both have withdrawn power on behalf of the petitioner and Mr. Ahteshamullah Khan, advocate has filed

power on his behalf and has argued the matter. He has submitted that petitioner is ready to pay the maintenance to the respondents but the quantum of maintenance is not justified from the record.

4. On the other hand, Mr. Shahb Sarki, advocate for respondents has argued that the income of petitioner is ascertainable from the bank statements filed by the respondents before the Family Court and the quantum of maintenance fixed is based on such statements.

5. On the previous occasions, the entire case of the petitioner, as was argued, was based on his appointment letter available at page-257 showing that his salary was fixed at Rs.42,000/-. This letter however shows that it was issued on 20.04.2023 and the commencement of employment was from 01.05.2023. To the Court's query as to what was occupation of the petitioner before that and what was his source of income, nothing was offered by the counsel for the petitioner. This document i.e. appointment letter purportedly appears to have been manipulated during the pendency of the family suit to defeat the order passed by the Family Court dated 22.03.2023 granting interim maintenance to the respondents. Before the Family Court this document was not produced, nor in the appeal for a consideration. Filing of such document in the constitution petition by the petitioner to show his income is less than granted by the Family Court is nothing but a crude attempt on his part to defeat orders of both the Courts below; not the least, when the very authenticity of the document is not beyond the suspicion. Both the Courts below after attending to relevant facts and circumstances of the case particularly bank statements of the petitioner accounts showing constant flow of money in and out have passed the orders determining quantum of maintenance of respondent No.1 and her kids, who are also equally kids of the petitioner.

6. The order was interim in nature and was likely to be merged in the final order. The petitioner instead of complying with the same chose to evade it thereby leading to striking off his right to defence and decree of the suit. In absence of any material or solid reason to the contrary, the same findings cannot be disturbed in constitutional jurisdiction, which has a very limited scope. I therefore find no merit in this petition and accordingly dismissed it along with pending application(s).

The petition stands disposed of in above terms along with pending application(s).

JUDGE