

IN THE HIGH COURT OF SINDH KARACHI

Const. Petition No.S-189 of 2025

(Mst. Hamana Rizwan v. Major Muhammad Talha Zafar & Ors.)

Date	Order with signature(s) of Judge(s)
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Directions.

For orders as to the maintainability of Petition.

16.03.2026.

Mr. Irfan A. Memon, Advocate for the Petitioner.

ORDER

Nisar Ahmed Bhanbhro, J. This petition is directed against the order dated 16.11.2023 passed by the Family Judge Malir Karachi in G & W Application No.21 of 2022, whereby an application filed by the petitioner, seeking determination of the jurisdiction of the Family Court, was rejected. The petitioner, instead of challenging the said order, filed revision application under Section 115 of the CPC before the District & Sessions Judge, Malir, Karachi, which too was declined on the point of maintainability vide order dated 23.12.2024.

2. On the last date of hearing, counsel for the petitioner was put on notice to satisfy the Court as to how an application under Section 115 of the CPC was maintainable against an order of the Guardian & Wards Court, which regulates its business under the Family Courts Act, 1964. Counsel for the petitioner has failed to satisfy the Court regarding the maintainability of the said application.

3. When confronted as to whether there was any illegality in the impugned order dated 16.11.2023 passed by the trial Court, learned counsel for the petitioner contended that the trial Court was required to decide the point of jurisdiction first before proceeding with the matter on merits. The contention so raised does not appear to be plausible, as the Court, in the operative part of its order, has stated that the respondent (petitioner herein) may file his written statement and thereafter the parties shall record their evidence regarding the availability of the minor to decide jurisdiction point. In support of his contentions he has placed reliance on the cases of *Mst. Zaibun Nisa v Muhammad Mozammil* (PLD 1972 Karachi 401), *Niaz Ahmad v Mst. Nasim Akhtar & Ors.* (1983 CLC 183) and *Messrs Muslim Commercial Bank Limited v Tahir Edible Oil (Pvt) Ltd. & Ors.* (2003 CLC 416).

4. As observed by the trial Court that after recording the evidence the question of jurisdiction as to whether the matter falls within its jurisdiction under Section 17 of the Family Courts Act, 1964, or whether it lacks jurisdiction in the matter will be decided. The filing of the instant petition, as well as the application before the trial Court is nothing but to be an attempt to delay the proceedings.

5. The instant petition, being devoid of merit, is hereby dismissed. Since the matter pertains to the year 2022, the trial Court is directed to decide the same expeditiously, preferably within six (06) months from the date of this order. A copy of this order shall be sent to the learned trial Court for information and compliance.

JUDGE