

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CP NO.S-988/2021

Date Order with signature of Judge

1. For hearing of CMA No.6525/2021.
2. For hearing of main case.

03.03.2022

Mr. Ghulam Yaseen advocate for petitioner.
M/s. Muhammad Faheem Zia and Dewan advocates for respondent
No.1.

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Heard and perused record.

2. By order dated 08.07.2019 petitioner was directed by the family court for payment of maintenance of the minors, subsequently application under section 17-A of the West Pakistan Family Courts Act 1964 was preferred to strike out the defence of the defendant as he has failed to comply with interim order pertaining to maintenance. That application was dismissed by order dated 30.09.2020. Petitioner has challenged that impugned order in present petition contending therein that order with regard to interim maintenance was not complied with hence trial court was required to strike off the defence of defendant (respondent). Being relevant paragraph No.3 of impugned order is reproduced herein :-

“I have considered the arguments and perused the record. Perusal of record shows that interim maintenance was granted vide order dated 08.07.2019 whereby the maintenance of plaintiffs No.2 and 3 was allowed and defendant was directed to pay an amount of Rs.10000/- per month each towards maintenance of the plaintiff No.2 and 3, record detailed Nazir report dated 30.09.2020 shows that he amount of Rs.210,000/- has been deposited by defendant on 16.10.2019, 14.11.2019, 16.12.2019, 11.01.2020, 13.02.2020, 14.03.2020, 14.14.2020, 14.05.2020, 13.06.2020, 14.07.2020, 15.08.2020, 14.09.2020.

Relying upon 2011 CCL 820, court has to decide the application for defence struck off in judicial manner

and not in mechanical manner, as maintenance has been deposited by defendant in said suit, therefore said application filed by plaintiffs is hereby dismissed. Let matter proceed.”

3. Learned counsel for petitioner contends that though Rs.210,000/- were deposited on different dates but same were not deposited in installments as interim order was passed.

4. Needless to mention that *lis* shall be decided on merit and no one shall be knocked out on technicalities. Interim maintenance was deposited and there is no plea that defendant is not depositing the maintenance regularly, hence present petition is dismissed alongwith listed applications.

J U D G E

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