Form No: HCJD/C-121

ORDER SHEET

IN THE LAHORE HIGH COURT LAHORE

(JUDICIAL DEPARTMENT)

Case No. W.P. No.40585/2026

Muhammad Iqbal Afzal **Versus** *Judge Family Court, etc.*

Sr.No.of order/ Proceedings	Date of order/ Proceedings	Order with signatures of Judge, and that of parties or counsel, where necessary.

09.07.2026 Mian Muhammad Umair Abbas, Advocate for the petitioner.

Through this writ petition, the petitioner Muhammad Iqbal Afzal has assailed the order dated 10.06.2026 passed by Judge Family Court Lahore, whereby the right to produce evidence has been closed and the affidavit of evidence submitted by the petitioner side, being a defendant in the case, was discarded.

2. Learned counsel for the petitioner contends that the petitioner was not given ample opportunity to produce evidence; even warning has not been given, though petitioner's counsel contends that he was not well on the said date, and this aspect has also been claimed on the basis of a medical certificate appended in this writ petition.

3. I have attended the order sheet with the able assistance of the counsel for the petitioner. It appears that the suit for dissolution of marriage on the basis of *khula*, as well as recovery of dowry articles and maintenance allowance, was filed by the respondent Maria Akram on 03.09.2019, and surprisingly the suit is still pending with the Judge Family Court, Lahore even though the issues were framed on the basis of pleadings on 24.12.2020, six years ago. The pace of the trial reflects the conduct of the Court towards the litigant, especially the respondent lady who is suffering hardship due to delay in dispensation of justice.

4. I have perused the impugned order, which reflects that a clear warning has been given to the petitioner; even on the previous date i.e. 12.05.2026, the petitioner was given a warning in clear words, and the same position is reflected from order dated 29.04.2026. Even on 20.04.2026, the last chance was granted. I have also scanned the other orders, which reflect the dilly-dallying tactics adopted by the petitioner side on numerous occasions. Much time has been exhausted on applications for submission of list of witnesses and de-exhibit of the dowry articles list.

5. In this regard, this Court is of the view that the Judge Family Court has been equipped with special powers to conduct these family cases in terms of procedure laid down in Sections 7, 8, 9, 10, 11, 12 of the West Pakistan Family Courts Act, 1964, with specified timelines, especially for recording of evidence and closing of evidence of both sides. A special Section 12-A has been incorporated through amendment in the Act to dispose of the cases within a period of 6 months from the date of institution. It has also been provided that where a case is not disposed of within 6 months, either party shall have a right to make an application to the High Court for necessary directions as the High Court may deem fit. But that proviso does not exclude the overall supervisory role of the learned District Judge of the district as well as of the High Court to conclude the matter by taking judicial notice of the working of the subordinate courts, including the Family Judges. Even otherwise, Section 17 has specifically laid down the exemption of the Qanun-e-Shahadat Order, 1984, as well as the Civil Procedure Code, 1908, with exception of Sections 10 and 11, in order to conclude the family trial within the shortest possible time.

6. This special statute has been enacted with a specific purpose to ensure the expeditious settlement and disposal of disputes relating to marriage and family matters and also matters connected therewith in terms of **PLD 2009 Lahore 18** *(Mst. Sitwat Chughtai and another versus Judge Family Court, Lahore and*

another). The object is for protection and convenience of the weaker and vulnerable segment of the society, that is, women and children, as held in **PLD 2016 Lahore 73** *(Ali Adnan Dar through Attorney versus Judge Family Court and others)*. The Family Court so established under Section 3 of the Family Courts Act, 1964, has been conferred a clear mandate for expeditious settlement and disposal of family disputes and related matters as per its preamble in terms of **PLD 2022 Lahore 840** *(Marriam Bibi and others versus Azhar Iqbal and others)*.

7. In the present situation, the Supreme Court of Pakistan in *(Mst. Yasmeen Bibi versus Muhammad Ghazanfar Khan and others)*, **PLD 2016 Supreme Court 613**, has settled the timelines, where it has been held that the governing principle was expressed with particular clarity after referring to the six-month period prescribed by section 12-A, the appellate period contemplated by section 14, and other amendments intended to curtail delay. The Court observed that the legislature had provided target dates for family courts and the appellate courts so that family cases might be decided conclusively, and any departure made from the true object and spirit of law enacted by the legislature would defeat the same, which is not permissible under any canon of justice and principle of law, nor do the courts have any authority or power to import their own opinion therein, thereby defeating the clear intention of the legislature. The specific legislative exclusion has been provided in the Family Courts Act, 1964, in terms of section 17, which expressly provides that, save as otherwise provided by or under the Act, the *Qanun-e-Shahadat Order, 1984,* and CPC, 1908, except sections 10 and 11, shall not apply to proceedings before the Family Court in respect of Part I of the Schedule. This aspect has been clarified by the Supreme Court that ordinary civil procedure and strict rules of evidence had been excluded because their application would reintroduce the technical barriers and delays which the special statute was enacted to avoid. The Court described the Act as a special enactment dealing with

special disputes between a special class of litigants and held that its objective was to provide a short and simple methodology and to shorten the agony of the parties. Hence, there is no bar on the Family Court to adopt any procedure which is neither illegal nor expressly prohibited by the Act and which does not offend the rights of the parties. The legislative intent of specific timelines is to be treated as an integral part of the new statutory scheme and as evidence of the legislature's intention to provide an efficacious and expeditious remedy.

Likewise, it is also settled law that the Family Court was not debarred from following a principle of CPC where that principle did not conflict with the special Act. On the facts, the principle related to service and appearance was used as guidance while the Court remained conscious that the formal provisions themselves did not govern. First of the cases, therefore, marks the distinction between the application of an excluded provision and the use of its underlying principle as a procedural aid where no inconsistency with the Family Courts Act exists, as held in **2010 SCMR 1840** *(Sayed Abbas Taqi Mehdi versus Mst. Sayeda Sabahat Batool and others)*. The very purpose of excluding the CPC and the law of evidence was intended to achieve a short, uncomplicated, and speedy process, as held in **2011 SCMR 1361** *(Farzana Rasool and 3 others versus Dr. Muhammad Bashir and others)*.

8. There is no cavil to the proposition that the Family Court had taken scheduled family matters out of the ordinary civil regime and had created a special forum in which ordinary procedural rigors and evidentiary requirements were dispensed with or simplified. Therefore, the exclusive jurisdiction and territorial competence of the Family Court were to be determined under the Family Courts Act and the rules framed thereunder, and not by importing provisions of the Guardian and Wards Act or the general civil procedure where the special enactment supplied the controlling rule, as held in *(Major Mohammad Khalid Karim*

versus Mst. Saadia Yaqub and others) **PLD 2012 SC 66**, and **PLD 2016 SC 613** *(Mst. Yasmeen Bibi versus Muhammad Ghazanfar Khan and others)*. It is further held that once sections 16 to 20 CPC stood excluded, they could not be used to dispel the territorial rule prescribed by the Family Courts Rules.

On the other end, the exclusion of the *Qanun-e-Shahadat Order*, especially in cases of recovery of dowry articles, if seen in the context of family cases, shows that evidentiary claims in Family Courts are not to be assessed by mechanically superimposing the formal proof requirements of QSO upon proceedings from which the legislature has expressly excluded that law, as held in **2017 SCMR 393** *(Shafique Sultan versus Mst. Asma Firdous and others)*. In view of the above discussion, the following principles emerge from the foregoing judgments:-

> ***First**, the Family Courts Act is a special and largely self-contained procedural enactment for the matters assigned to Family Courts. The forum, method of trial, evidentiary approach and available remedies are primarily governed by that Act and the Rules framed thereunder.*
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> ***Second**, section 17 expressly excludes the application of the C.P.C., except sections 10 and 11, and the QSO in the matters falling within Part I of the Schedule. Consequently, a party cannot claim a right, remedy, appeal, objection, mode of proof or procedural facility merely because it is available under the general procedural law.*
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> ***Third**, where the special Act or its Rules expressly prescribe a procedure, that procedure must be followed. A Court cannot substitute an ordinary civil procedure or its own preferred method if doing so would contradict an express provision, alter the statutory sequence, enlarge or curtail a statutory right, or defeat the purpose of the special regime.*
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> ***Fourth**, the statutory timelines and measures intended to accelerate family litigation are material indicators of legislative policy. General procedural devices cannot be employed to reopen, prolong or fragment proceedings in a way that undermines the expeditious remedy contemplated by the Act.*
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> ***Fifth**, exclusion of the C.P.C. and QSO does not deprive the Family Court of all procedural discretion or inherent authority necessary to discharge its judicial function. Where the Act is silent, the Court may devise or borrow a fair procedure or apply a general procedural principle, provided that no express prohibition exists,*

> *the adopted procedure is compatible with the Act, does not offend fair hearing or any legal right, and advances the statutory object.*
>
> ***Sixth**, there is a material legal distinction between applying a provision of the C.P.C. as binding law and following the equitable or procedural principle underlying it. The former is impermissible where the provision stands excluded; the latter may be permissible where it supplements a genuine statutory silence without contradicting the special enactment.*
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> ***Seventh**, procedural borrowing is particularly recognized where it is necessary to prevent fraud, misrepresentation or abuse of judicial process, because exclusion of the C.P.C. was intended to remove technical delay and not to immunise fraudulent adjudication from correction.*

9. Therefore, any unnecessary delay reflected in the trial, either by the parties or by the conduct of the respective lawyers, the Family Judge has to look into the overall timeline provided in the law, and if the matter has not been adjudicated within the specified timeline, then the District Judge has to play its role as well as the High Court. The entire background of this case reflects that 107 dates of hearing have been conducted in this case in the past 7 years, and 10 Family Judges have dealt with this case, which reflects the poor working of the courts to dispense justice in a family matter under the High Court at Lahore.

10. This Court is further of the view that, in family proceedings, parties and their learned counsel frequently file multiple applications at different stages of the trial by invoking, by analogy, the provisions of the Code of Civil Procedure, 1908, or the Qanun-e-Shahadat Order, 1984. Such practice often results in avoidable delays, thereby frustrating the legislative object of expeditious disposal of family disputes. In such circumstances, the Judge, Family Court, should not, as a matter of routine, adjourn the case merely for obtaining a written reply to every miscellaneous application and thereafter fix another date for arguments. Instead, the Court should adopt a proactive and pragmatic approach by, wherever appropriate, hearing the opposite party forthwith and deciding the application on the same day

without insisting upon a written reply, unless the nature of the controversy genuinely necessitates the filing of such reply in the interest of justice. As a matter of judicial discipline and case management, every such application should, as far as practicable, be decided within three days of its institution and without granting unnecessary adjournments, so as to advance the legislative intent of ensuring a speedy trial under the Family Courts Act, 1964.

11. It is equally imperative for every Family Court to faithfully observe the principle of *audi alteram partem* by affording each party a fair opportunity of hearing. However, the doctrine of fair hearing cannot be construed to justify repeated or unnecessary adjournments for production of evidence, cross-examination of witnesses, or filing of documents where the parties have already been afforded adequate and reasonable opportunities in accordance with law. The requirement of fairness is satisfied by providing a reasonable opportunity, and not by permitting proceedings to be prolonged indefinitely at the instance of either party. Furthermore, since the provisions of the Qanun-e-Shahadat Order, 1984 stand excluded from proceedings before the Family Court except to the extent expressly made applicable by law, the Court should not ordinarily grant separate adjournments merely for production of original or primary documentary evidence. Where photocopies or other documentary material have already been filed along with the pleadings, the Court may evaluate their evidentiary worth at the time of final adjudication and draw such inference, whether favourable or adverse, as the facts and circumstances of the case may warrant. Consequently, avoidable adjournments solely for formal production of documentary evidence should ordinarily be discouraged.

Likewise, the Family Court should ordinarily refrain from embarking upon the exercise of de-exhibiting documents or deciding interlocutory objections regarding admissibility or mode of proof at intermediate stages of the

proceedings. Unless the objection pertains to the inherent jurisdiction of the Court or to the admissibility of evidence expressly prohibited by law, such objections should ordinarily be recorded and deferred for determination in the final judgment. This approach is consistent with the summary and expeditious procedure contemplated by the Family Courts Act, 1964, and avoids piecemeal adjudication of fragmented issues that unnecessarily interrupts the progress of the trial. The Family Court, therefore, is expected to exercise effective judicial control over the proceedings, discourage dilatory tactics, refuse unwarranted adjournments, and ensure that every procedural order advances, rather than defeats, the paramount legislative objective of the Family Courts Act, 1964, namely, the just, inexpensive, and expeditious resolution of family disputes.

12. This Court considers it necessary to reiterate that the Family Courts Act, 1964, is a special statute enacted with the paramount object of ensuring the just, inexpensive, and expeditious adjudication of family disputes. Every Judge, Family Court, is under a statutory obligation to conduct proceedings in a manner that faithfully advances this legislative intent. The responsibility for effective case management and timely conclusion of proceedings primarily rests with the Presiding Judge, who is expected to exercise firm judicial control over the conduct of the trial. While this Court is conscious of the fact that unnecessary applications, repeated requests for adjournments, and other dilatory tactics are at times employed by litigating parties or their learned counsel, such circumstances do not absolve the Family Court of its statutory responsibility to regulate the proceedings in accordance with law. The power to control the proceedings, decline unwarranted adjournments, regulate the order of evidence, and ensure adherence to the statutory timelines is vested in the Family Court itself. Consequently, the ultimate responsibility for preventing avoidable delays rests with the Presiding Judge. Accordingly, where proceedings remain

unnecessarily protracted in disregard of the statutory scheme of the Family Courts Act, 1964, and the delay is attributable to lax case management or failure to exercise the jurisdiction vested by law, the Presiding Judge may render himself or herself answerable in accordance with the applicable law governing judicial conduct and administration. Mere reference to pressure from the Bar, the conduct of the parties, or routine administrative difficulties cannot, by themselves, constitute a satisfactory explanation for prolonged delays. Such factors may only be considered where the record affirmatively demonstrates that the delay occurred due to circumstances genuinely beyond the control of the Family Court despite the exercise of due diligence and effective judicial supervision.

13. It is, therefore, expected that every Judge, Family Court, shall remain mindful of the legislative policy underlying the Family Courts Act, 1964, exercise active and effective control over the proceedings, discourage all dilatory practices, and ensure that every procedural order facilitates, rather than impedes, the prompt disposal of family litigation. The confidence of litigants in the family justice system depends not only upon the correctness of judicial decisions but also upon their timely delivery in accordance with the mandate of law.

14. Considering all these facts and background, it appears that multiple opportunities have already been granted to the petitioner, but he delayed the matter for one reason or the other, and considering the law on the subject as well as the legislative intent drawn from the timeline provided in the Family Courts Act, 1964, no exception could be taken in favour of the petitioner on any count, and the instant petition is ***dismissed*** with the direction to the Judge Family Court seized with the matter to conclude this issue on day-to-day basis (within a period of 15-days from the date of receipt of this order) and submit a report through the Director General, Directorate of District Judiciary.

Before parting with this judgment, considering this case as a test case for the entire Province of Punjab under Lahore High Court supervisory jurisdiction, the Directorate of District Judiciary, as well as all the District and Sessions Judges of the districts, are directed to requisition reports from their respective Family Judges where any family suit filed by either party has a shelf-life of more than 6 months. Then a reason should be received from the concerned Court, and appropriate action be taken for early disposal of the matter in accordance with law.

(Mohsin Akhtar Kayani)
Judge

Approved for reporting.

Judge

Jahanzaib*