JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

WRIT PETITION NO. 701 OF 2025

SYED UMER SANI.

VS

LEARNED FAMILY COURT WEST, ISLAMABAD & ANOTHER.

Petitioner by	**:**	**Mr. Ahmed Murtaza Advocate.**
Respondents by	**:**	**Mr. Muhammad Inam Mughal Advocate.**
Date of hearing	**:**	**14.04.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the Petitioner/Defendant has challenged the Order dated 07.01.2025 **("Impugned Order")** passed by the learned Judge Family Court, West-Islamabad/Respondent No. 1 **("Family Court")**, whereby the Application for amendment in the Written Statement/Reply has been dismissed.

2. The brief facts of the case as per the Memo of Petition are that Respondent No. 2/Plaintiff filed a Suit for Recovery of Maintenance, etc. before the learned Family Court which was contested by the Petitioner/Defendant by filing Written Statement/Reply on 09.02.2023. On 07.10.2024, the Petitioner/Defendant filed an Application for Amendment in the Written Statement/Reply which was contested by the Respondent No. 2/Plaintiff. The learned Family Court after hearing arguments of learned counsel for the parties, dismissed the said Application vide the Impugned Order. Being aggrieved of the Impugned Order, the Petitioner/Defendant has filed the instant Writ Petition.

3. The learned counsel for the Petitioner/Defendant contended that the Impugned Order is legally unsustainable as the Family Court failed to decide the matter in accordance with law, rendering it arbitrary, biased, and lacking judicial application of mind; that the learned Family Court acted beyond its jurisdiction and committed material irregularity, depriving the Petitioner/Defendant of a fair hearing and trial; that the Courts in Pakistan have the discretion to allow amendments to pleadings at any stage for proper adjudication, which the learned Family Court failed

to consider; and that the refusal to permit amendment was against the principles of justice and judicial propriety. Reliance was placed on **1985 CLC 132**. It was further argued that the Impugned Order has caused disproportionate harm to the Petitioner/Defendant, impairing the right to address core issues and obtain an equitable remedy. Accordingly, the counsel prayed that the Writ Petition be accepted and the Impugned Order be set aside.

4. On the other hand, the learned counsel for Respondent No. 2/Plaintiff argued that the Impugned Order is a well-reasoned order that does not suffer from any illegality or irregularity; and that through the Application for Amendment in the Written Statement/Reply, the Petitioner/Defendant wants to fill up the lacunas left at the time of filing of previous Written Statement/Reply. Lastly, the learned counsel prayed that instant Petition may kindly be dismissed.

5. I have heard the learned counsel for the parties and have also perused the record with their able assistance.

6. The Suit for the Recovery of Maintenance, Dower and Gold Ornaments was filed by the Respondent No. 2/Plaintiff on 01.11.2022 and Written Statement/Reply was filed by the Petitioner/Defendant on 09.02.2023, issues were framed, cross-examination was also conducted on the witnesses of the Respondent No. 2/Plaintiff and affidavit of evidence on behalf of the Petitioner/Defendant has also been submitted on 20.07.2024. Thereafter, the Petitioner/Defendant submitted an Application through his counsel, for Amendment in the Written Statement/Reply on 07.10.2024 i.e. after almost more than one and half years from the filing of the previous Written Statement/Reply. Reliance is placed on the ruling of the august Supreme Court of Pakistan titled "Mst. Imam Hussain Vs. Sher Ali Shah and others" **(1994 SCMR 2293)**, the relevant portion of which is reproduced as under: -

> *"In our view, the petitioner was not entitled to seek the amendment of the plaint in the above civil revision after the expiry of nearly five years from the date of filing of the suit with the object to change the complexion of the suit. No doubt this Court has held in a number of cases that an application for amendment of the pleadings can be entertained at any stage of the proceedings, but, at the same time, it has been consistently held that the amendment of the plaint cannot be allowed to change the complexion of the suit. In the present case, the above belated attempt of the petitioner to amend the plaint was not warranted by the facts and law."*

Further, reliance is placed on a Judgment titled "Abdul Rashid and others Vs. Abdul Salam and others", **(1984 MLD 167)**, the relevant portion of which is reproduced as under:-

> *"The application for amendment was submitted after about three years of the filing of the written statement and was merely an afterthought intended to be used as a lever to prolong the litigation. The decision of the plea, sought to be raised through amendment of the written statement, necessarily required recording of the evidence. The application having been made at a very last stage, was rightly rejected".*

Under Order VI, Rule 17, Code of Civil Procedure, 1908 **("CPC")**, pleadings can be amended in such manner and on such terms as may be just and all such amendments shall be made as may be necessary for determining the real questions in controversy between the parties. On perusal of the Application filed by the Petitioner/Defendant before the learned Family Court for the amendment of Written Statement/Reply, it transpires that the Petitioner/Defendant has mentioned totally new facts that will definitely change the nature of the defense and will prejudice the right of the Respondent No. 2/Plaintiff. Under the law, the Court may at any stage of the proceedings allow either party to alter or amend its pleadings in such a manner that the Court considers just and necessary for meeting the ends of justice and for the purpose of determining the real questions in controversy between the parties. The amendments that the Petitioner/Defendant is seeking will definitely change the nature of the defense and will also fill up the lacunas left at the time of filing of the previous Written Statement/Reply. In this regard, reliance is placed on a Judgment of august Supreme Court of Pakistan passed in the case titled "Syed Muhammad Ali and others Vs. Syed Dabir Ali and others" reported as **(2016 SCMR 2164)**, the relevant portion of which is reproduced as under: -

> *"We are, therefore, of the view that amendment in the written statement ought not to have been allowed by the Trial Court as it has changed the entire complexion of the defense raised in the original written statement. In any case, the plea that was taken in the amended written statement also could not be established through confidence inspiring evidence."*

In addition to this, as per the mandatory provision of Section 12-A of the West Pakistan Family Courts Act, 1964 "*the Family court shall dispose of a case,*

including a suit for dissolution of marriage, within a period of six months from the date of institution and any delay will amount to violation of section 12-A ibid".

7. The learned counsel appearing on behalf of the Petitioner/Defendant has failed to point out any cogent justification warranting the amendment of the Written Statement/Reply that would be essential for the just and proper adjudication of the real issues in controversy between the parties. Furthermore, the learned counsel has not been able to establish any illegality or material irregularity in the Impugned Order passed by the learned Family Court, which, in my considered view, is well-reasoned and in consonance with the law and the facts of the case.

8. For the foregoing reasons, the instant Petition is devoid of any merits, hence, **dismissed**.

(MUHAMMAD AZAM KHAN)
JUDGE

Sajid/--