

**IN THE COURT OF APPEAL OF THE DEMOCRATIC  
SOCIALIST REPUBLIC OF SRI LANKA**

Uvaizul Karani Mohamed  
Musharaff,  
No. 63,  
Maliban Street,  
Colombo 11.  
Respondent-Appellant-Petitioner

**CA CASE NO: CALA/8/2015**

**BOARD OF QUAZIS CASE NO: BQ 37/13/A/CMB**

**QUAZI FOR COLOMBO WEST CASE NO: 1171/CM**

Vs.

Fathima Zuhara Mubarak,  
No. 131/A,  
Galle Road,  
Dehiwela.  
Applicant-Respondent-Respondent

Before: Mahinda Samayawardhena, J.

Counsel: Yussuff Nasar for the Appellant.

Safana Gul Begum for the Respondent.

Decided on: 08.02.2019

Samayawardhena, J.

The respondent-appellant (appellant) has filed this appeal with leave obtained from a former bench against the Judgment of the Board of Quazis dated 19.09.2015 by which the maintenance order made against the appellant father by the Quazi in respect of three children was affirmed.

As seen from the petition of appeal filed before the Board of Quazis,<sup>1</sup> the complaint of the appellant against the maintenance order was that no proper inquiry was held by the Quazi before making the said order. This contention has been rejected by the Board of Quazis.

The applicant-respondent-mother (respondent) has asked as maintenance, per mensem, Rs. 79,000/= for the daughter who was at that time 18 years old and studying at the Royal Institute for a Degree Programme, Rs. 50,000/= each to the two sons who were at that time 15 and 10 years old and studying at the Royal College.<sup>2</sup> The appellant in reply has stated that he could pay only Rs.15,000/= to all three children. Then the Quazi has informed both parties to produce proof regarding expenses and income, and postponed the inquiry for 20.04.2013.<sup>3</sup>

At the inquiry on 20.04.2013, the respondent has handed over “*an affidavit to Court with all her claims and other proof on husband’s income/expenditure etc.*” This has been recorded in front of the appellant as seen from the signature of the appellant appearing on that day proceedings.<sup>4</sup> The respondent’s affidavit is found at pages

---

<sup>1</sup> Vide pages 7-9 of X.

<sup>2</sup> Vide page 70 of X.

<sup>3</sup> *ibid.*

<sup>4</sup> *Ibid.*

73-76 of X, and the “*other proof on husband’s income/expenditure*” are found at pages 77-101 of X—all bearing the 20.04.2013 date stamp of the Quazi Court. Hence the complaint of the appellant that he does not know how those documents found their way to the case record is unfounded.

The appellant, although the Quazi requested the other day, did not produce any document at the inquiry to prove his income, expenses etc., but made under oath a bear statement that he was willing to pay only Rs. 20,000/= to all three children as he has no assets whatsoever.<sup>5</sup> In that statement he has stated that when they were living as a family he has been “*paying all school fees, van fees, tuition fees, medicinal and all other maintenance of the three children.*” That means, he understands the expenses of the children. It is important to note that in his statement/evidence he does not say that the children’s expenses are false or exaggerated.

Thereafter “*after going through all the documents*”<sup>6</sup>, the Quazi has ordered the appellant to pay Rs. 25,000/= to the daughter, Rs. 30,000/= to the elder son, and Rs. 25,000/= to the younger son.

The complaint of the appellant now before this Court is that he was not aware of the documents said to have been tendered with the affidavit and therefore the inquiry was not conducted properly. This complaint is unacceptable because as I stated earlier, as seen from the proceedings before the Quazi, everything has happened in front of the appellant.

In any event, it is not the complaint of the appellant before this Court that they are forged documents. They are innocent

---

<sup>5</sup> Vide page 69 of X.

<sup>6</sup> Ibid-I think word written is “Documents”.

documents, mostly bank documents, to show the appellant's financial capacity/stability.

The inquiry before the Quazi may not have been conducted in a manner which ideally it should have been done, but, as the Board of Quazis has observed "*The learned Quazi has conducted the inquiry in a satisfactory manner given the limited resources available in the Quazi system in Sri Lanka.*"

I see no compelling reason to interfere with the Judgment of the Board of Quazis.

Appeal is dismissed with costs.

Judge of the Court of Appeal