IN THE SUPREME COURT OF AZAD JAMMU AND KASHMIR
(Shariat Appellate Jurisdiction)

PRESENT:

RAZA ALI KHAN, J.
KHALID YOUSAF CHAUDHARY, J.

CIVIL APPEAL NO. 102 OF 2025
(On appeal from the order of the Shariat Appellate Bench of the High Court dated 12.12.2024, in Family Appeal No. 308/2024)

Syeda Safeena Bukhari d/o Yousaf Shah Bukhari.

…Appellant

VERSUS

Zafar Qayyum Gillani s/o Muhammad Suleman Gillani.

…Respondent

Appearances:

For the Appellant:	Mrs. Kausar Parveen Awan, Advocate.
For the Respondent:	Mr. Zahid Akram Khan, Advocate.
Date of hearing:	07.01.2026

JUDGMENT:

***Raza Ali Khan, J*:-** This appeal, by leave of the Court, has been filed against the order of the Shariat Appellate Bench of the High Court *(hereinafter to be referred as "High Court")*, dated December 12, 2024, whereby, the appeal filed by the respondent, herein, has been partly accepted.

2. The factual background giving rise to the present appeal is that the plaintiff/appellant instituted a suit for recovery of maintenance allowance on 01.02.2021, before the Court of Additional District Judge/Judge Family Court, Muzaffarabad. Upon completion of requisite proceedings, the learned Family Court decreed the suit vide judgment and decree dated 20.10.2022, holding that the plaintiff was entitled to past maintenance at the rate of Rs.7,000/- per month and maintenance for the iddat period at the rate of Rs.10,000/- per month. Consequently, upon the judgment and decree attaining finality, the decree-holder initiated execution proceedings on 02.02.2024. During the course of execution, the learned Family Court passed an order dated 06.09.2024, directing immediate satisfaction of the decree in accordance with law. The said order was assailed by the judgment-debtor before the learned High Court, which, vide judgment dated 12.12.2024, partly accepted the appeal and modified the execution order by allowing payment of the decretal amount in installments, directing deposit of Rs.50,000/- within one month and thereafter payment of Rs.15,000/- per month.

3. The decree-holder has assailed the impugned judgment, contending that although Section 13(5) of the Family Courts Act, 1993, vests discretion in the Court to permit payment in installments, such discretion is required to be exercised judiciously so as to ensure expeditious, effective and meaningful execution of maintenance decrees. It was argued that Rule 14-A of the AJ&K Family Courts Procedure Rules, 1998, was specifically enacted to curb delays in execution and that fixation of installments at an unduly low monthly rate defeats the legislative intent underlying maintenance laws,

which are designed to provide immediate, adequate and effective financial relief to vulnerable litigants.

4. Per contra, learned counsel for the respondent supported the impugned judgment, submitting that Section 13(5) of the Family Courts Act, 1993, is a substantive provision conferring wide discretion upon the Court to regulate the mode of satisfaction of a decree. It was further argued that Rule 14-A(3) of the Family Courts Procedure Rules 1998, is procedural and directory in nature and does not restrict the Court from structuring installment-based compliance beyond the stipulated period, particularly where the financial capacity of the judgment-debtor so warrants.

5. We have heard the learned counsel for the parties and examined the record with due care. There is no quarrel with the proposition that Section 13(5) of the Family Courts Act, 1993, confers discretion upon the Court to permit satisfaction of decree by way of installments. However, such discretion is not absolute or unfettered; it is required to be exercised judiciously, reasonably and in furtherance of object of the statute. Likewise, Rule 14-A of the AJ&K Family Courts Procedure Rules, 1998, though procedural in character, reflects a legislative intent to ensure expeditious and effective execution of family law decrees, particularly those relating to maintenance. The said rule cannot be interpreted in a manner that renders execution proceedings merely symbolic or indefinitely delayed.

6. The harmonious and correct legal position, therefore, is that the court may in appropriate cases, allow payment of decretal amounts in installments even beyond the period contemplated under Rule 14-A (3), such liberty must be exercised in a manner that ensures satisfaction of the decree

within a reasonable time frame, keeping in view the nature of decree, the amount involved, and the object of maintenance laws. Fixation of installments at an unduly low monthly rate, which has the effect of prolonging execution for an unreasonable duration, amounts to an improper exercise of judicial discretion and frustrates the very purpose of maintenance decrees, which are intended to provide immediate, adequate and meaningful financial relief to vulnerable litigants.

7. In the present case, although the learned High Court rightly exercised jurisdiction under Section 13(5), the fixation of monthly installments at Rs.15000/- having regard to the total decretal liability and the nature of the claim, does not meet the test of reasonableness and expediency. The discretion, though lawfully invoked, has thus not been exercised in consonance with the governing statutory scheme.

8. Similarly, the execution order passed by the learned Family Court directing immediate satisfaction of the decree, without structuring a realistic and enforceable mode of compliance, also calls for reconsideration. Execution proceedings are intended not merely to enforce decrees in form, but to secure their effective, just and workable implementation.

9. In these circumstances, in order to balance the rights of the decree-holder with the capacity of the judgment-debtor and to ensure meaningful execution of the decree, it would be appropriate to set aside both the execution order dated 06.09.2024, passed by the learned Family Court and the modifying judgment dated 12.12.2024, rendered by the learned High Court.

10. Consequently, the matter is remanded to the learned Family Court, Muzaffarabad, with a direction to execute the decree afresh in accordance with law, keeping in view the principles discussed herein, and to structure payment of the decretal amount in such a manner as would ensure satisfaction of the decree within a reasonable period, without causing undue hardship to either party.

11. Before parting with the case, it must be emphasized that decrees for maintenance are not ordinary money decrees. They relate to survival, dignity, and day-to-day subsistence, and therefore require prompt and effective enforcement.

12. While Section 13(5) of the Family Courts Act, 1993 empowers the Court to permit payment in installments, such discretion is meant to facilitate compliance, not to delay or dilute the decree. Installments, if allowed, must be realistic and structured in a manner that ensures satisfaction of the decree within a reasonable time. Fixation of token or nominal monthly payments, which prolong execution for years, defeats the very purpose of maintenance law.

13. Likewise, directions for "immediate satisfaction" of a decree, without providing a workable mode of compliance, do not serve the ends of justice. Execution must be firm yet practical, keeping in view both the needs of the decree-holder and the paying capacity of the judgment-debtor.

14. Accordingly, Family Courts, while executing maintenance decrees, shall exercise discretion with care by fixing time-bound and meaningful installment schedules, ordinarily requiring a reasonable upfront deposit, and by retaining effective control over execution so that default does not go unchecked. The framework of Rule 14-A of the AJ&K

Family Courts Procedure Rules, 1998, though procedural, reflects the legislative intent to prevent delay and must guide the execution process.

15. It bears reiteration that sympathy for financial constraints cannot be allowed to erode the rights of a decree-holder, as delayed maintenance often amounts to denied maintenance. Family Courts are, therefore, expected to enforce such decrees in a manner that is fair, workable, and just to both sides.

The appeal is disposed of accordingly. No order as to costs.

JUDGE **JUDGE**

Mirpur,
19.01.2026.