

1968 Present : Sirimane, J., and Pandita-Gunawardene, J.

A. L. M. THAHIR, Petitioner, and A. M. SHAFI and another,
Respondents

*S. C. 403/68—Application for a Mandate in the nature of a Writ
of Certiorari and/or Mandamus on A. M. Shafi (Quazi),
Quazi Court, Ratnapura, and another*

*Muslim Marriage and Divorce Act (Cap. 115)—Section 64 (1)—Enforcement order—
Duty of Quazi to issue notice to the respondent.*

Before an enforcement order under Section 64 (1) of the Muslim Marriage and Divorce Act is issued a Quazi should issue notice to the respondent and inquire into any objections which he may raise.

APPPLICATION for a writ of *certiorari* and/or *mandamus*.

M. S. M. Nazeem, for the petitioner.

December 7, 1968. SIRIMANE, J.—

The first respondent (a Quazi) has issued an enforcement order to the Magistrate of Avissawolla on 3.8.68, to recover a sum of Rs. 1,050 from the petitioner, as arrears of maintenance due to his daughter at Rs. 12.50 per month from 3.6.61 to 7.6.68. No inquiry had been held by the first respondent, and no notice given to the petitioner, before the order was made.

There is some *prima facie* evidence, which indicates that the sum of Rs. 1,050 is incorrect. In July 1968, the second respondent had moved for enhancement of maintenance for her daughter and the amount was enhanced from Rs. 12.50 to Rs. 25. There was no complaint by her that there were any arrears of maintenance from 1961 onwards. Before an enforcement order under Section 64 (1) of the Muslim Marriage and Divorce Act issues a Quazi should notice the respondent and inquire into any objections he may raise.

The order of 3.8.68 is quashed and the first respondent is directed to hold an inquiry after notice to the petitioner, before an enforcement order is issued.

PANDITA-GUNAWARDENE, J.—I agree.

Sent back for further proceedings.
