

*Order Sheet*  
**IN THE HIGH COURT OF SINDH AT KARACHI**

**C.P. No.S-1329/2023**

[Rizwanur Rehman v. Mst. Uzma and two others]

**C.P. No.S-1330/2023**

[Rizwanur Rehman v. Mst. Uzma and two others]

Petitioner : Through Mr. Abdul Rauf, Advocate  
Respondents : Nemo.  
Date of Hg. & order : 02-09-2025.

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**ARSHAD HUSSAIN KHAN, J.-** Since both these petitions arise from the same set of facts and involve common questions of law and fact, they are being disposed of through this **common judgment**, in the interest of consistency and to avoid duplication.

Through the captioned constitutional petitions, the petitioner has assailed the judgment dated **05.09.2022** passed by the learned XVI-Family Judge, Karachi [Central] in Family Suit No.1425 of 2018, instituted by respondent No.1, Mst. Uzma and others, against the present petitioner, as well as the two judgments, both dated **11.10.2023**, separately rendered by the learned VI-Additional District Judge, Karachi [Central], in Family Appeals No.105 of 2022 and No.106 of 2022. The Appeal No.105 of 2022, filed by the petitioner challenging the order of the learned trial court, was dismissed, whereas Appeal No.106 of 2022, filed by respondent Mst. Uzma Rizwan, was disposed of by modifying the order of the learned trial court in her favour.

2. Concisely, respondent No.1/plaintiff instituted a Family Suit No.1425 of 2018 for restitution of conjugal rights, recovery of dower amount, dowry articles & maintenance as follows :

- A: To direct the Defendant to perform his conjugal rights towards the Plaintiffs No. 1.
- B: To direct the Defendant to pay to the Plaintiff No. 1 a sum of Rs.25000/- towards her dower amount.
- C: To direct the Defendant to handover to the Plaintiff No. 1 her dowry articles (as per list at Annexure-F) worth of Rs.8,45,200/ or in alternative to pay their equivalent value; and also pay to the Plaintiff No. 1 a sum of Rs.3,29,550/ being wedding expenses (as per list at Annexure-G).
- D: To direct the Defendant to pay to the Plaintiffs as follow:-  
For Plaintiff No. 1:

Past Maintenance @Rs.41,348/month w.e.f. July 2016 to July 2018 and future maintenance at the same rate with 10% increase annually till such time the Plaintiff No. 1 is legally wedded wife of the Defendant.

For Plaintiff No. 2:

Past Maintenance of the minor Plaintiffs NO. 2 Rs.53,155/- per month & further maintenance at the same rate with 10% annual increase till such time the minor Plaintiffs No. 2 gets married.

For Plaintiff No. 3:

Past Maintenance of the minor Plaintiffs NO. 3 Rs.52,655/ per month & further maintenance at the same rate with 10% annual increase till such time the minor Plaintiffs No. 3 gets married.

Accommodation Expenses of the Plaintiffs:

An amount of Rs.35000/- per month including Rs.25,000/= monthly rent of First Floor, House No.B134, Hussain De'Silva Town, Block-P, North Nazimabad, Karachi w.e.f. June 2018 till such time the Defendant arranges a separate house for Plaintiffs.

E: To award costs of the suit.

F: Any other relief under the circumstances of the case.

3. Upon notice, the petitioner/defendant appeared before the learned trial court and filed a written statement wherein he categorically denied the claim of the respondent/plaintiff while stating that he has given divorce to the plaintiff/respondent No.1 and prayed for dismissal of the suit. Thereafter, the court framed the issues, recorded the evidence of the parties, and ultimately decreed the suit, vide the judgment of the learned trial court dated **05.09.2022**.

4. The aforesaid judgment and decree of the trial court were challenged by the petitioner in Civil Appeal No.105 of 2022, which was dismissed by the learned VI-Additional District Judge, Karachi [Central], thereby maintaining the judgment dated **05.09.2022** passed by the trial court, vide appellate judgment dated **11.10.2023**. The same judgment and decree were also assailed by respondent No.1, Mst. Uzma Rizwan, through Civil Appeal No.106 of 2022, which was disposed of by the learned VI-Additional District Judge, Karachi [Central], by modifying the trial court's judgment dated **05.09.2022** in her favour, vide appellate judgment dated **11.10.2023**.

5. Learned counsel for the petitioner argued that both the courts below committed material illegality by failing to adhere to the mandatory provisions of the Qanun-e-Shahadat Order, 1984, particularly in appreciating the oral and documentary evidence on record. He has contended that the findings regarding maintenance and

dowry articles were based on misreading and non-reading of evidence, and that the appellate court further erred in modifying the trial court's judgment by granting an unjustified increase in past and future maintenance. Learned counsel maintained that there were serious discrepancies in the calculation of amounts and the period of maintenance, which the courts failed to properly determine. It is urged that the impugned judgments were rendered in haste and without proper judicial application of mind, rendering them unsustainable in law. He, has, therefore, prayed for setting aside the judgments of both courts below. Reliance was placed upon 1991 MLD 1594, 1992 SCMR 1273, PLD 2025 SC 434, 2008 SCMR 505 and PLD 2009 SC 760.

6. I have heard learned counsel for the petitioner and examined the material available on record.

From a perusal of the record and the submissions made by learned counsel for the petitioner, it is evident that the petitioner seeks to challenge the concurrent findings of fact recorded by both the trial and the appellate courts through the instant constitutional petition.

7. The objections raised by learned counsel for the petitioner primarily relate to factual controversies, such as the valuation of dowry articles, computation of maintenance, and the alleged pronouncement of divorce. These matters have been comprehensively examined by both the trial and appellate courts through proper framing of issues, recording of evidence, and rendering of reasoned findings. The record reflects that the petitioner was afforded full and fair opportunity to contest the claims and lead evidence in support of his defence, which he duly availed. Mere dissatisfaction with the outcome of those proceedings does not, by itself, warrant interference in the constitutional jurisdiction of this Court. In the absence of any jurisdictional defect, misapplication of law, or material procedural irregularity, the concurrent findings of fact recorded by the courts below have attained finality and cannot be reopened under Article 199 of the Constitution.

8. As regards the petitioner's plea of prior divorce, the same was specifically disputed by the respondent and remained unsubstantiated by any cogent or reliable evidence. The findings of the courts below concerning maintenance, dowry, and restitution were based on the evidence adduced by the parties and were duly examined by the appellate court. The appellate court, while partially modifying the decree, rightly exercised its discretion in enhancing the maintenance in view of the needs of the minors and the prevailing circumstances. These concurrent findings of fact suffer from no legal infirmity, perversity, or jurisdictional defect so as to justify interference in the constitutional jurisdiction of this Court.

9. From a perusal of the record, it is manifest that the petitioner failed to satisfy the decree, and the appeal preferred by him against the judgment and decree of the learned trial court also stood dismissed. Yet, by dragging the matter from one forum to another, particularly in a family dispute, the petitioner has indulged in vexatious litigation, thereby causing undue delay in the enforcement of lawful rights and adding to the already heavy burden of the courts. Such practice has been strongly deprecated by the Supreme Court of Pakistan, which has consistently emphasized that family matters must be decided and concluded with utmost expedition in order to protect the rights and dignity of the parties, especially women and children<sup>1</sup>.

10. It may also be observed that the constitutional petition cannot be considered as second appeal against the order passed by lower appellate court. In the instant case, the two courts below have given concurrent findings against, which the petitioner has not been able to bring on record any concrete material or evidence, whereby, such findings could be termed as perverse or having a jurisdictional defect or based on misreading of fact. It is well settled that if no error of law or defect procedural defect has been committed in coming to a finding of fact, the High Court cannot substitute such findings merely because a different findings could be given. It is also well settled law that concurrent findings of the two courts below are not to be interfered in the constitutional jurisdiction, unless extra ordinary circumstances are demonstrated, which in the present case is lacking.

11. Furthermore, the Supreme Court of Pakistan in the case of M. Hamad Hassan v. Mst. Isma Bukhari and 2 others [2023 SCMR 1434] while dilating upon the scope of constitutional jurisdiction of the High Court has observed as under:

“7. The right to appeal is a statutory creation, either provided or not provided by the legislature; if the law intended to provide for two opportunities of appeal, it would have explicitly done so. In the absence of a second appeal, the decision of the appellate court is considered final on the facts and it is not for High Court to offer another opportunity of hearing, especially in family cases where the legislature's intent to not prolong the dispute is clear.”

[emphasis supplied]

12. For the foregoing reasons, these petitions seeking interference with concurrent findings of fact recorded by the trial and appellate courts, which disclose no jurisdictional defect or legal infirmity are not maintainable under Article 199 of the Constitution. The case law cited on behalf of the petitioner is distinguishable on facts and renders no assistance. As no exceptional circumstances have been shown, the petitions, being devoid of merit and constitute an abuse of process, are accordingly **dismissed**.

JUDGE

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<sup>1</sup> Shahzad Amir Farid v. Mst. Sobia Amir Farid [2024 SCMR 1292]