

ORDER SHEET
**IN THE HIGH COURT OF SINDH
CIRCUIT COURT MIRPURKHAS**

C.P. No.S-142 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection.
2. For orders on M.A No.1793/2025.
3. For orders on M.A No.1794/2025.
4. For hearing of main case.

11.09.2025

Mr. Abdul Ghaffar Narejo, Advocate for the petitioner.

O R D E R

Amjad Ali Sahito, J:- Through this constitutional petition, petitioner Mst Khatija Khan has challenged the impugned Judgment dated 31.05.2025 passed by the learned Additional District Judge-II/MCAC, Mirpurkhas, in Family Appeal No.22 of 2025 [Re- Muhammad Umair v. Mst Khatija Khan] whereby dismissed the appeal, which was filed against the impugned Judgment and Decree dated 17.02.2025 passed in Family Suit No.41 of 2024 [Re-Mst Khatija Khan v. Muhammad Umair] by the learned 1st Civil/Family/Judicial Magistrate, Mirpurkhas wherein suit of the petitioner was decreed. Hence, the petitioner has approached this Court for setting aside the impugned Judgments and Decree by the Courts below.

2. At the very outset, a pointed query was put to the learned counsel for the petitioner as to whether any statutory remedy remains available to the petitioner after the filing of Family Appeal against the Judgment and Decree of the learned Family Court, and further, whether the extraordinary writ jurisdiction of this Court may be invoked as a substitute for an appeal, notwithstanding the fact that, under the Family Courts Act, 1964, an appeal against the Judgment and Decree of a Family Court attains finality. Upon such query the learned counsel has relied upon bailiff report and this court asked question whether he has filed any objection on bailiff report or examined the bailiff, on which he replied in negative. However, the learned counsel for the petitioner could not furnish a satisfactory response.

3. At this stage, it is pertinent to mention here that during trial, the petitioner/plaintiff had not challenged the bailiff report, which indicates that the contents of the report were accepted as correct and uncontroverted.

4. With respect to the submissions advanced by the learned counsel regarding the impugned Judgments and Decree, I am not persuaded by his contentions. It is settled law that this Court, while exercising constitutional jurisdiction, may only interfere where the impugned orders have been passed without lawful authority or jurisdiction. In the present case, the Judgments and Decree in question were rendered by the courts below within their lawful authority and jurisdiction, hence they are immune from challenge under constitutional jurisdiction. Furthermore, the petitioner has already availed the statutory remedy of appeal, which stands concluded with finality, and therefore, the extraordinary writ jurisdiction cannot be invoked as a substitute remedy. To allow such a course would defeat the intent and purpose of the Legislature.

5. As regards the appreciation of evidence, it is trite law that the evaluation of evidence falls within the exclusive domain of the trial court, and thereafter the appellate court. Unless it is demonstrated that the findings are tainted with mala fides, arbitrariness, perversity, or are rendered in excess of jurisdiction, writ jurisdiction cannot be invoked merely to reappraise the evidence. No such defect has been pointed out in the present case to warrant interference by this Court.

6. In this regard, guidance may be drawn from the authoritative pronouncements of the ***Hon'ble Supreme Court of Pakistan in Arif Fareed v. Bibi Sara and others [2023 SCMR 413] and M. Hamad Hassan v. Mst. Isma Bukhari and others [2023 SCMR 1434]***.

7. For what has been discussed above, instant petition is **dismissed** in limini along with listed application(s).

JUDGE