

IN THE HIGH COURT OF SINDH AT KARACHI

**C.P No.S-854 of 2018**

**Present: Mr. Justice Nazar Akbar**

Petitioner : Fida Ahmed  
through Mr. Farooq Hussain Abbasi Advocate

Respondent No.1 : Mst. Sadia. (Nemo)

Respondent No.2 : Bakhtawar. (Nemo)

Respondent No.3 : Addl: District & Sessions Judge, IXth, South  
Karachi. (Nemo).

Date of hearing : 18.5.2018

Date of decision : 30.5.2018

**J U D G M E N T**

**NAZAR AKBAR, J:-** This constitution petition is directed against the concurrent findings of two Family Courts below. The learned XIX Family Judge, Karachi South has decreed family suit No.1353/2014 filed by Respondent No.1 by order dated **8.2.2017** and against the said order the Petitioner preferred an appeal No.10/2017 which was dismissed by the learned XIth Additional District and Sessions Judge, Karachi South on **06.3.2018**.

2. Learned counsel for the Petitioner has not been able to justify that how this constitution petition is maintainable against the concurrent findings of Family Court and the Appellate Court. However, he insisted that there was some misreading of evidence by the two Courts below. The Courts have not taken into account the evidence of independent witness who was driver of Shahzor Truck.

3. I have gone through the impugned judgments in which I have noticed that both the Courts below have dealt with the evidence of the said witness and other witnesses. The evidence of driver of Shahzor Truck was not confidence inspiring. In the cross-

examination he has not been able to show his presence or relevancy with the facts of the instant case. I have also gone through the cross-examination. These witnesses appear to be setup witnesses in a family dispute to prove alleged removal of dowry articles by the lady. The best evidence should have been the neighbor and none of the neighbors has been examined in support of averment in the written statement. The High Court in constitutional jurisdiction cannot re-examine the same evidence to come to a different conclusion. The case law relied upon by the learned counsel for the Petitioner is of no relevancy. Therefore, this petition is dismissed alongwith pending application(s).

JUDGE

Karachi  
Dated: 30.5.2018

*Ayaz Gul/P.A\**