

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
Constitution Petition No.D-7940 of 2018

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Date \_\_\_\_\_ Order with Signature(s) of Judge(s) \_\_\_\_\_

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**Present**  
**Mr. Justice Muhammad Ali Mazhar**  
**Mr. Justice Agha Faisal**

Jan Muhammad son of  
Zaheer-ud-Din Babar.....Petitioners

V E R S U S

Secretary, Local Government Sindh,  
Karachi & others .....Respondents

**30.11.2018**

Mr. Qadir Hussain Khan, advocate for petitioner  
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**Muhammad Ali Mazhar, J:** Petitioner has approached this Court for directions against respondent No.2 to allow him to contract second marriage. The case of the petitioner is that he filed the Family Suit No.598/2018 in the Court of XVI-Civil and Family Judge, Karachi (Central) for restitution of conjugal rights against his wife (respondent No.3). According to the details mentioned in the Judgment, the summons were issued to the respondent No.3 and notice was also published in the newspaper, but she failed to join the proceedings, hence she was debarred from filing written statement and the petitioner was directed to file affidavit of ex parte proof. Vide Judgment dated 22.5.2018, the Family Suit of the petitioner was decreed with the direction to the respondent No.3 to join the petitioner and perform conjugal obligations. Neither the respondent No.3 joined the petitioner in terms of the decree nor this decree is executable through execution proceedings, therefore,

the petitioner has approached this Court for directions to the respondent No.2 to grant permission for second marriage.

To a question raised by this Court to the learned counsel for petitioner whether any application was filed to the concerned Union Council, learned counsel invited our attention to page 19 of the petition, which is an application allegedly submitted to the Union Council, but neither the proper address of the Union Council is mentioned in the caption of the application nor any acknowledgement is shown on the application to consider that any such application was received by the concerned Union Council.

Under Section 6 of the Muslim Family Laws Ordinance, 1961, it is clearly provided that no man, during the subsistence of an existing marriage shall except with the previous permission of the Arbitration Council contract another marriage, nor any such marriage contracted without such permission to be registered. In Sub-Section 2, an application for such type of permission is required to be submitted to the Chairman in the prescribed manner and according to Clause 'd' of Section 2 of the Muslim Family Laws Ordinance, 1961, the word "prescribed" means "prescribed by rules made under the Muslim Family Laws Ordinance, 1961. According to Rule 15 of the West Pakistan Rules under the Muslim Family Laws Ordinance, 1961, an application to contract another marriage during the subsistence of an existing marriage shall be in writing. It shall also state whether consent of the existing wife has been obtained and it shall also contain the brief statement of the grounds on which new marriage is alleged to be just and necessary. The application must have the signature of the applicant

and shall be on fee of Rs.100/-. On examination of this petition, it is unequivocally clear that no application has been moved by the petitioner in accordance with the conditions and prerequisites provided under the ordinance as well as rules framed thereunder.

The petition is not maintainable, which is dismissed in limine. However, the petitioner may apply in accordance with the conditions mentioned in the Muslim Family Laws Ordinance, 1961 and the rules to the Competent Authority.

Judge

Judge

asim/pa