

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

CP No.S-1519 of 2016

Date	Order with signature of Judge
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1. For hearing of CMA No.6616/2016 (stay)
2. For hearing of main case

19.10.2018

Mr. Badrul Alam, advocate for the petitioner.

This constitution petition is directed against the concurrent findings of the two courts below.

The only point raised by the petitioner was that he was not properly served with Family Suit No.497/2014 in which an exparte decree was passed against him. He filed an application for setting aside the order after seven months of a decree. He did not disclose that since he had no notice of the proceedings of Family suit without any service and even execution proceeding then how he came to know of the case. The trial Court and the appellate Court after going through record came to the conclusion that service has been properly held-good on the same address, which was mentioned in the pleading of Ex.wife / respondent as the petitioner still lives at the same address. The two concurrent findings of the facts cannot be examined by this Court in constitution jurisdiction. Even otherwise the factual controversy has not been challenged as the learned counsel has raised only point that provision of **Section 8** of the Family Court Act, 1964 was violated in the process of service. He has relied on the following case law.

- i. Muhammad Qayum Baig ..Vs.. Mst. Sabira Sultana and 2 others (1986 CLC 194)
- ii. Ghulam Rasool ..Vs.. Additional District Judge, Sahiwal and another (2006 YLR 549)
- iii. Mst. Kaneez Fatima ..Vs.. Mumtaz Khan and 2 others (PLJ 1983 SC 234).

All these cases were prior to amendment in **Section 8** of the Family Court Act, 1964 and prior to the date of amendment whereby **Section 12-A** of the Family Court Act, 1964 was inserted that family suits should be decided within six months. None of the case law is relevant in the present case. Since the impugned order was a challenge to decree of dower amount and dowery articles, the petitioner was offered to deposit security of decretal amount to contest the suit. He has flatly refused the offer.

In view of the above, this petition is dismissed being devoid of merit.

JUDGE

SM