

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No.237/2020

DATE

ORDER WITH SIGNATURE(S) OF JUDGE(S)

Before: Mr. Justice Nazar Akbar

Petitioner:

Shaikh Muhammad Rafay Qaiser,
through Mr. S. Muhammad Haider,
Advocate.

Versus

Respondent No.1:

Farah Alam (Nemo),

Respondent No.2:

IXth Additional District Judge, Karachi
East.

Date of hearing:

24.02.2020

Date of Judgment :

24.02.2020

JUDGMENT

NAZAR AKBAR, J. The petitioner through this constitutional petition has challenged the order dated **05.12.2019** passed by IXth Addl. District & Sessions Judge (MCAC) Karachi East in Family Appeal **No.143/2019** whereby judgment and decree dated **03.7.2019** passed in Family Suit **No.2741/2017** by XXTH Family Judge Karachi East was maintained /modified.

2. Briefly stated the facts of the case are that Respondent No.1 filed Suit No.2741/2017 for maintenance, recovery of dowry articles and dower amount in the Court of XXth Family Judge, Karachi, East. On service the petitioner filed written statement denying the allegations and raising dispute of factual nature.

3. After framing of issues, recording of evidence and hearing the parties, learned trial Court by order dated **03.07.2019** decreed the suit of Respondent No.1 in the following terms:-

“Hence, after perusing the deposition of the parties, and taking in consideration, the financial status of defendant, the Court considers it reasonable to direct the defendant to pay Rs.3000/- per month to Plaintiff No.01 as past maintenance from month of March 2016 till date of judgment, further, defendant is directed to pay future maintenance to plaintiff No.1 at the rate of Rs.4000/- Four Thousand per month with 10% percent increment from the date of judgment till her legal entitlement. As far as the maintenance of minor Plaintiff No.02 namely baby Aayat Hareem is concerned, defendant is directed to pay past maintenance to minor/plaintiff No.02 for amount of Rs.4000/- (Four Thousand Rupees only) from the date of birth i.e 03.09.2016 till date of judgment so also future maintenance of Rs.4500/- four Thousand Five Hundred Rupees from the date of judgment till her legal entitlement with 10 per cent per annum.”

Respondent No.1/Plaintiff filed appeal which was disposed of by the appellate Court. Learned IXth Addl. District Ist Additional District & Session Judge, Karachi East, maintained/modified the order passed by the trial Court in Family Suit **No.2741/2017**. The Appellate order was more or less the same with certain modifications of the claim raised by the Respondent No.1 in her plaint. The petitioner has preferred instant petition against the order dated **05.12.2019** passed in Family Appeal **No.143/2017**.

4. I have heard learned counsel for the petitioner and perused the record

5. Learned counsel for the petitioner has assailed the order dated **05.12.2019** passed by the appellate Court, but

unfortunately he has not identified any misreading and non-reading of evidence in coming to the conclusion by the appellate Court, not a single sentence from the evidence of either side has been referred to by the learned counsel to assert that the judgment suffer from any illegality on account of misreading of evidence.

6. It is settled law that constitution petition does not lie against concurrent findings, therefore, this petition is dismissed alongwith listed applications being not maintainable.

JUDGE

SM