

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No.2758/2018

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

Before: Mr. Justice Nazar Akbar

Petitioner: Naseem Ahmed through
Mr. Asif Mubarak Ali, Advocate.

Versus

Respondent No.1: Fareeha Khalid,

Respondent No.2: Baby Zaina,
Respondent No.3: Baby Zona,

Respondent No.4: IIIrd ADJ & Session Judge, South
Karachi.

Respondent No.5: XXI Family Judge, South, Karachi.

Date of hearing: **05.03.2020**

Date of Judgment : **05.03.2020**

JUDGMENT

NAZAR AKBAR, J. The petitioner through this constitutional petition has challenged the order dated **28.11.2018** passed by IIIrd Addl. District Judge, South Karachi, in Family Appeal **No.26/2018**, whereby the order dated **31.01.2018** passed by XXIth Civil & Family Judge, South Karachi in Family Suit **No.1130/2015** was modified in favour of the petitioner.

2. Briefly stated the facts of the case are that Respondent No.1 filed Suit No.1130/2015 for dissolution of marriage by way of khula, recovery of dowry articles and maintenance in the Family Court. On service the petitioner filed written statement and denied rest of 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 **31.01.2018** decreed the suit of Respondent No.1 in the following terms:-

“Suit of the plaintiffs is decreed with no order as to cost for dissolution of marriage by way of khula maintenance and recovery for the dowry articles. Defendant is directed to submit maintenance of Plaintiff No.1 only for the Eddat period of Rs.4000/- per month totaling to Rs.12000/-, Defendant is directed to pay past maintenance for the plaintiff No.2 to 3 as per the interim order. Defendant is directed to pay the arrears if any remaining until January, 2018. Defendant is directed to pay future maintenance at the rate of Rs.7000/- each minor per month starting from February, 2018 till their legal entitlement with 10% annual increment. Defendant is directed to submit the future maintenance until 14th of each month in the Nazir of this Court. Defendant is directed to return the dowry articles or to pay the amount of Rs.15000/- to plaintiff No.1”.

Petitioner filed appeal and the appellate Court set aside the grant of maintenance for Iddat period amounting to Rs.12000/- for the reason that she has failed to prove her forceful ousting and that she had herself got the marriage dissolved. The petitioner has preferred instant petition against the two judgments.

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

5. Learned counsel for the petitioner has assailed both the orders but unfortunately he has not identified any misreading and non-reading of evidence in coming to the conclusion by both the Courts below, not a single sentence from the evidence of either side has been referred to by the learned counsel to

assert that the two judgments suffer from any illegality on account of misreading of evidence.

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

JUDGE

Karachi
Dated:05.03.2020

SM