

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
**HYDERABAD**

C.P.No.S-389 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE
	1. For hearing of MA- 1278/2020 2. For hearing of main case.

**20.01.2021.**

Mr. Muhammad Asif Zai, advocate for petitioner.  
Mr. Muhammad Kaleemullah, advocate for private respondent.  
Mr. Wali Muhammad Jamari, A.A.G, for official respondents.

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**Irshad Ali Shah, J;** The facts in brief necessary for disposal of instant petition are that the private respondent claiming to be legally wedded wife of the petitioner filed a suit for maintenance. It was decreed by learned Family Judge at Mirpurkhas. Such decree was maintained by learned Appellate Court at Mirpurkhas. Such concurrent findings of learned Appellate and Trial Court are impugned by the petitioner before this Court by way of instant petition.

2. It is contended by learned counsel for the petitioner that the petitioner has never married with the private respondent and such fact is proved of her statement, which she made before learned Sessions Judge, Mipurkhas, at the

time of hearing of Criminal Miscellaneous Application No.259 of 2019 “titled Muhammad Ali Vs. Mir Muhammad and others”; such fact has not been taken into consideration by learned Trial Court and Appellate Court has recorded no independent findings on each and every issue involved in the suit. By contending so, he sought for setting-aside of the impugned judgment.

3. It is contended by learned counsel for the private respondent that the concurrent findings of the learned Trial and Appellate Courts awarding maintenance to the private respondent could not be disturbed by this Court in exercise of its constitutional jurisdiction. By contending so, he sought for dismissal of the instant petition.

4. It was contended by learned A.A.G for the official respondents that no public interest is involved in the instant petition.

5. I have considered the above arguments and perused the record.

6. The appeal was preferred by the petitioner before learned Appellate Court for the reason that there is mis/non-reading of the evidence on part of learned Trial Court. In that situation, learned Appellate Court ought to

have disposed off the appeal by framing point for determination covering the dispute between the parties. The disposal of the appeal by making observation that the impugned judgment/decreed of the learned Trial Court is based on sound reasons could hardly be justified.

7. In view of the above, the impugned judgment is set-aside with directions to learned Appellate Court to pass the same afresh by framing a point for determination involving controversy between the parties.

8. The instant petition is disposed off accordingly.

JUDGE

Muhammad Danish Steno\*