

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CP No.S-1050 of 2019

Date	Order with Signature of Judge
1.	For orders on CMA No.591/2002 (U/s.151 CPC)
2.	For hearing of Main case

31.01.2020

Mr. S. Mukhtar Hussain, advocate for petitioner.
Respondent No.1 Mst. Shakeela Naz present in person.

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The petitioner through this constitution petition has challenged concurrent findings in Family Suit **No.1174/2018** dated **30.01.2019** by the XIXth Civil & Family Judge, Karachi South, which was modified in Family Appeal **No.54/2019** by the learned IXth Addl. District Judge, Karachi South. The parties contested the case before the Court and led their evidence. The trial Court keeping in view the circumstances of the parties disposed of the Family Suit in the following terms:-

“In the light of above findings, the suit of the plaintiff stands decree only to the extent that plaintiff No.1 is entitled for her past maintenance for a period from 19.6.2012 till 15.9.2018 at the rate of Rs.2000/- per month; whereas the plaintiff No.2 is entitled for her maintenance at the rate of Rs.3500/- per month from 19.6.2012 till her legal entitlement with 10% annual increment whereas the claim of the plaintiff No.1 regarding dowry articles stands declined. Both the parties are left to bear their own costs”.

2. In appeal learned Appellate Court again examined the facts of the case and the evidence and modified the judgment in the following terms:-

“It is also on record that during her cross examination, she has admitted that it was her knowledge that suit for separation has been decreed against her and she also admitted that before filing suit of separation, appellant sent a legal notice upon her of joining him but she did not reply the same, meaning thereby that she was performing her matrimonial obligations on her own wishes and when wife not performing her matrimonial obligation towards her husband and live stay away from him without any proper justification, she will not be entitled for any maintenance but trial court without considering such facts hence the judgment passed by trial Court by granting maintenance for 6 years to respondent No.1 is not justified. In view of above the modification in judgment made and prayer for maintenance of respondent No.1 is declined while maintenance granted to minor will be remained same”.

3. 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. It is settled law that constitution petition does not lie against concurrent findings of facts and therefore, this petition is dismissed alongwith listed applications.