

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No. S-1309 of 2018

Date: Order with signature of Judge

1. For orders on office objection
2. For hearing of MA No.5414/18
3. For hearing of main case

28.5.2019

Mr. Akhlaq Ahmed for petitioner
Mr. Sher Afzal Khan for the respondent No.1
.X.X.X.X.

The proceedings commenced by the respondent No.1 in respect of dissolution of relationship between her and the petitioner. She filed a Family Suit NO.908/2017. Notices were ordered to be served upon the petitioner and at that point of time the petitioner was shown resident of Azad Jammu & Kashmir. Be that as it may, during proceedings a letter was allegedly received by the Court, which came in the knowledge of the Counsel for the respondent No.1 that the petitioner had divorced the respondent No.1. On the basis of such divorce allegedly sent by the petitioner, a statement was filed by the Counsel for the respondent No.1 that she did not wish to proceed with the family suit further on receipt of divorce as in her view the proceedings became infructuous. On the statement of the respondent, the impugned order was passed, the crux of which was that the suit has become infructuous. However, the suit was neither dismissed nor decreed therefore, it is neither here nor there. Today after detail arguments learned Counsel for the respondent submits that she intended to withdraw the Family Suit whereon the impugned order was passed and it may be defective in the way that it was neither dismissed nor decreed whereas in his view it had become infructuous and could have been dismissed as such.

Be that as it may, Counsel for the respondent No.1 agreed that the suit ought to have dismissed in view of the statement. He still maintains that in view of the aforesaid statement, the impugned order be modified.

In view of the above, the observation of the trial Court is set aside and the impugned order is modified to the extent that “the family suit No. 908/2017 is dismissed as withdrawn with no order as to cost”. This petition as such is disposed of in the above terms along with all pending applications.

The R&Ps of Family suit NO. 908/2017 be sent back to the trial Court.

Judge