

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

C.P No.S-131 of 2022

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DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection.
2. For hearing of MA 384/2022.
3. For hearing of main case.

25.03.2022

Mr. Rao Faisal Ali, Advocate for Petitioner.  
Mr. Wali Muhammad Jamari, Assistant A.G.

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**Zulfiqar Ahmad Khan, J:** This Constitutional Petition impugns the Order and Decree dated 19.02.2021 passed by learned Family Judge, Umerkot in Family Suit No.153 of 2020 and judgment dated 21.01.2022 passed by learned Additional District Judge-I / Model Civil Appellate Court, Umerkot in Family Appeal No.03 of 2021.

2. Concisely, facts of the case are that respondent No.1 / plaintiff had filed a Suit against the petitioner / defendant being Family Suit No.153 of 2020 for Dissolution of Marriage by way of Khulla with following prayers:-

- a) To dissolve the marriage of the plaintiff with the defendant by way of KHULA on ground of cruel conduct and hate.
- b) Costs of the suit be borne by the defendant.
- c) Any other relief, this Honourable court may deem fit and proper may be awarded to the plaintiff.”

3. Thereafter, the learned trial Court, after framing of issues and hearing both the respective parties, decreed the suit of plaintiff / respondent No.1 vide order and decree dated 19.02.2021. Being aggrieved by the said order and decree, an appeal was preferred by the defendant / petitioner before the learned Additional District Judge-I /

Model Civil Appellate Court, Umerkot where, the learned appellate Court dismissed the appeal filed by the petitioner / defendant and against the said judgment, instant petition has been filed.

4. In response to that suit, Written Statement was filed wherein the petitioner / defendant denied all the allegations leveled against him and prayed for dismissal of the suit filed by the plaintiff.

5. Learned counsel for the petitioner states that the impugned judgment of the learned appellate court and the order and decree passed by the trial court are opposed to facts and law involved in the matter and both the courts below have failed to consider the various important points of the case and have passed the impugned judgment and decree without considering the evidence and the material available on record. It is further contended that the evidence adduced by the petitioner has not been considered by the trial court. Lastly, he prayed for setting aside of the impugned judgment and order passed by both the court below.

6. I have heard the arguments of learned counsel for the petitioner and perused the record. Admittedly, this petition has been filed against judgment / order passed in family matter, where disputed questions of facts based on evidence have been assailed as to the enlistment suit for dissolution of marriage by way of KHULA, which cannot be entertained in a Constitutional Petition. Furthermore, the trial Court has given due attention to the pleadings of the parties, evidence adduced by them before the Family Court and after proper appreciation of the evidence awarded the decree for dissolution of marriage by way of KHULA in favour of respondent No.1. Learned counsel for the petitioner has even failed to satisfy this court about the illegality or irregularity in the order of the trial court and the appellate Court was not satisfied with the

evidence produced by the petitioner / defendant and dismissed the appeal.

7. In these circumstances, where Courts below while delivering their judgment / order have given cogent and sound reasons and there appears no error, illegality or irregularity on the surface to call for any interference and no misreading and non-reading of evidence is apparent, I see no merits in the instant petition, accordingly, relying on the dictum laid down by the Apex Court in the case of Abdul Razzak v. Shabnam Noonari and others (2012 SCMR 976), this petition is dismissed alongwith pending application.

JUDGE

Tufail