

*Order Sheet*  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD  
C.P. No.S-113 of 2020

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DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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For hearing of MA 731/2020  
For hearing of main case

03.11.2023

Mr. Muhammad Asif Zai Advocate for Petitioner.

This petition assails concurrent judgments rendered in the family jurisdiction. Family Suit No.36 of 2019 was filed for recovery of dower amount, dowry articles and maintenance against the present Petitioner and the same was decided on 06.04.2019. Family Appeal No.20 of 2019 was filed by the Petitioner in the Court of Additional District Judge-II Mirpurkhas and the same was disposed of vide judgment dated 15.02.2020. In the appellate order the decree to the extent of dower and maintenance was maintained, however, but the findings with respect to certain dowry articles were set aside. The present petitioner assails the concurrent findings and submits that since no further appeal is provided, hence, this Court may appreciate the evidence within its Constitutional jurisdiction and render its own independent findings and set aside the concurrent judgments.

The Supreme Court has maintained in *Gul Taiz Khan Marwat*<sup>1</sup> that an appeal is a creation of statute and in the absence of any such remedy being provided none can be presumed. In so far as the plea for *de novo* appreciation of evidence is concerned, it would suffice to observe that writ jurisdiction is not an amenable forum in such regard<sup>2</sup>.

At the very outset, learned counsel was queried as to whether there is any jurisdictional defect in the judgments impugned and the response is articulated in the negative. The judgments appear to have rested the respective conclusions upon detailed appreciation of evidence and no infirmity in such regard, meriting interference in writ, could be demonstrated. Learned counsel also remained unable to show that the conclusions drawn by the respective forums could not be rested on the rationale relied upon. The matter has been conclusively determined and per statute, finality is attached to the appellate order referred to supra.

This petition *prima facie* unjustifiably assails the concurrent findings of the statutory hierarchy in the writ jurisdiction of this Court; the same has been disapproved by the Supreme Court in *Hamad Hasan*<sup>3</sup> and earlier similar views were also expounded in *Arif Fareed*<sup>4</sup>. Therefore, in *mutatis mutandis* application of the reasoning and ratio illumined, this petition is found to be misconceived, hence, dismissed with listed application.

Judge

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<sup>1</sup> Per Ijaz ul Ahsan J in *Gul Taiz Khan Marwat vs. Registrar Peshawar High Court* reported as *PLD 2021 Supreme Court 391*.

<sup>2</sup> *2016 CLC 1; 2015 PLC 45; 2015 CLD 257; 2011 SCMR 1990; 2001 SCMR 574; PLD 2001 Supreme Court 415*.

<sup>3</sup> Per Ayesha A. Malik J in *M. Hamad Hassan vs. Mst. Isma Bukhari & Others* reported as *2023 SCMR 1434*.

<sup>4</sup> Per Amin ud Din Ahmed J in *Arif Fareed vs. Bibi Sara & Others* reported as *2023 SCMR 413*.