

HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD

C.P. No.S-158 of 2026

[Muhammad Danial vs. Mst. Kiran]

Petitioner:	By Mr. Naeem Ahmed Junejo, Advocate
Respondent:	By M/s Mansoor A Jamali and Ali Irshad, advocates
Date of hearing	14.10.2026
Date of Decision	14.10.2026

O R D E R

ADNAN-UL-KARIM MEMON J:- Petitioner prays that this Court set aside the Impugned Judgment & Decree dated 14-02-2026 passed by the Learned Appellate Court as well as the Judgment and Decree dated 27-10-2025 passed by the Learned Trial Court, which are null, void, and ab initio, and give the opportunity of recording evidence to the petitioner and decide the matter on merits.

2. The case of the petitioner, in brief, is that the respondent/plaintiff instituted Family Suit No.1426/2024 seeking recovery of Haq Mehr amounting to Rs.1,500,000/-, maintenance for herself and the minor at Rs.15,000/- per month each, medical expenses of Rs.150,000/- and return of dowry articles or their alternate value of Rs.200,000/-. The petitioner contested the suit, asserting that the respondent had voluntarily left his house, refused reconciliation, had already received her Haq Mehr, and that he had borne her medical expenses. It is contended that the learned Trial Court closed his side of evidence without affording him a proper opportunity to produce evidence and dismissed his application under Section 151 CPC for reopening the evidence, thereafter passing the Judgment and Decree dated 27.10.2025 in favour of the respondent. The petitioner preferred Family Appeal No.02/2026, which was dismissed by the learned District Judge, Hyderabad, vide Judgment and Decree dated 14.02.2026, maintaining the judgment of the learned Trial Court. Being aggrieved by and dissatisfied, the petitioner has challenged both judgments and decrees because the Courts below failed to properly appreciate the pleadings and material on record, ignored material admissions of the respondent, and passed the impugned judgments without sufficient opportunity to lead evidence or adequately considering the merits of the case. He, therefore, seeks setting aside of both judgments and

decrees and remand of the matter for decision on merits after allowing him to produce evidence.

3. Learned counsel for the petitioner contends that the impugned judgment and decree dated 14.02.2026, as well as the judgment and decree dated 27.10.2025 passed by the learned Trial Court, are contrary to the facts and law, having been passed without proper appreciation of the evidence, pleadings and material available on record. Learned counsel maintains that the learned Appellate Court dismissed the family appeal without properly examining the record or addressing the material grounds raised therein. He, therefore, prays that both impugned judgments and decrees be set aside.

4. Conversely, learned counsel for the respondent opposed the petition, contending that the petitioner failed to cross-examine the respondent despite repeated opportunities, comply with the interim maintenance order dated 04.04.2025, and lead his evidence due to repeated adjournments and changing of his counsel. He further argued that the appeal, filed on 24.12.2025, was delayed by 28 days without plausible explanation and was time-barred and was rightly dismissed. He prayed for dismissal of the petition by maintaining the impugned Judgment and Decree of the trial Court and appellate Court.

5. I have heard learned counsel for the parties and examined the material available on record.

6. The trial Court, vide judgment dated 27.10.2025, partly decreed the suit, holding that the respondent/ plaintiff was entitled to recover Rs.15,00,000/- as deferred dower, maintenance at the rate of Rs.5,000/- per month from September 2024 with 10% annual increase, and maintenance for her minor son, Zawar Hussain, at the rate of Rs.6,000/- per month from September 2024 with 10% annual increase. The trial Court further awarded medical expenses of Rs.32,341/- against supporting receipts. However, the claims for dowry articles or their alternate value of Rs.2,00,000/- were declined for want of independent corroboration and documentary evidence. The trial Court observed that the petitioner/defendant had failed to cross-examine the respondent/plaintiff or produce evidence in his defence despite repeated opportunities. Accordingly, the suit was partly decreed with no order as to costs. An appeal was preferred, which was dismissed vide judgment dated 14.2.2026 on the same analogy.

7. Giving the considered view the impugned judgments and decrees have been passed in accordance with law after affording the petitioner sufficient opportunities to contest the suit and lead evidence. In such

circumstances of the case, the petitioner cannot claim an indefinite right to produce evidence when he has failed to avail the opportunities provided by the learned Trial Court and at this stage asking for remanding the matter. The application under Section 151 CPC was rightly dismissed, as the inherent jurisdiction of the Court cannot be invoked to overcome the consequences of a party's own negligence or to reopen evidence merely to fill lacunae in its case. The respondent's alleged admission regarding voluntarily leaving the matrimonial home does not, by itself, extinguish her lawful entitlement to dower, maintenance or other reliefs, as she appeared in the witness box and her examination-in-chief was recorded, but she was not subjected to cross-examination by petitioner though he was available in Court. The petitioner has failed to demonstrate any material illegality, jurisdictional defect or misreading or non-reading of evidence in the shape of examination-in-chief, warranting interference with the concurrent findings of the Courts below. It appears that the learned Appellate Court, having examined the controversy and maintained the Trial Court's judgment, was not required to accept the petitioner's version merely because a different view was possible. In such circumstances remand of the case cannot be ordered at this stage as a matter of course, particularly where no specific denial of a fair opportunity or sufficient cause for failure to produce evidence has been established as discussed supra. The petitioner has, therefore, failed to make out any exceptional ground for setting aside the concurrent judgments and decrees, and the petition is liable to be dismissed.

8. It is also settled that concurrent findings of fact recorded by the learned Courts below are not ordinarily interfered with in constitutional jurisdiction unless the petitioner establishes a patent illegality, material irregularity, misreading or non-reading of evidence, violation of a mandatory legal provision, or denial of a fair hearing resulting in a miscarriage of justice. In the present case sufficient opportunity was given to the petitioner but he failed to avail it as such no further indulgence is required under Article 199 of the constitution.

9. The constitutional jurisdiction of this Court cannot be invoked merely to obtain a fresh appraisal of the evidence or to substitute another possible view for the findings already recorded.

10. In view of the foregoing discussion, the petitioner has failed to establish any illegality, material irregularity, misreading or non-reading of evidence, or denial of a fair opportunity as discussed supra warranting interference with the concurrent judgments and decrees passed by the learned Courts below. No exceptional circumstance has been demonstrated to justify reopening the evidence or remanding the matter

for a fresh decision. Consequently, the petition, being devoid of merit, is dismissed along with pending applications, if any. The impugned judgments and decrees dated 27.10.2025 and 14.02.2026 are maintained.

JUDGE

Sajjad Ali Jassar