

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

Constitutional Petition No.S-105 2026
(*Majid Ali v. Mst. Malookzadi & another*)

Mr. Noor-u-Zaman Hingorjo, Advocate for petitioner.

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Date of hearing: 04.03.2026

Date of order: 04.03.2026

J U D G M E N T

Riazat Ali Sahar, J. Through this Constitutional Petition, the petitioner has called in question the judgment and decree dated 05.01.2026, passed by the learned Additional District Judge / Model Civil Appellate Court (MCAC), Hala, whereby Family Appeal No.15 of 2024 was dismissed. The said appeal had been preferred against the judgment and decree dated 18.09.2024 passed by the learned Civil/Family Judge-I, Hala, in Family Suit No.26 of 2023. By virtue of the impugned judgment, the suit filed by respondent No.1/plaintiff was decreed to the extent that she was held entitled to recovery of Rs.10,000/- on account of Haq Mehr along with dowry articles as detailed therein, or in the alternative, a lump sum amount of Rs.100,000/-. She was further held entitled to maintenance for minor plaintiff No.2 at the rate of Rs.7,000/- per month with effect from 18.04.2024 till his legal entitlement, along with an annual increase of 10%.

2. Briefly stated, respondent No.1 averred that she was married to the petitioner about fourteen years ago against a Haq Mehr of Rs.10,000/- and one cow, which remained unpaid. It was further stated that the Nikah was performed orally. Out of the wedlock, one child, namely Wajid Ali, was born, who was stated to be about twelve

years of age. She further contended that she had brought valuable dowry articles, which remained in possession of the petitioner. According to her, she was subjected to maltreatment and was ousted from the matrimonial home about eleven years ago, and since then she has been residing separately. It was further alleged that the petitioner failed to maintain both her and the minor child, which constrained her to institute the aforementioned suit, which ultimately culminated in a decree in her favour.

3. I have heard the learned counsel for the petitioner and have also perused the available record with his assistance.

4. Learned counsel for the petitioner contended that the minor, namely Wajid Ali, is in fact more than eighteen (18) years of age, as mentioned in the memo of petition, and argued that such aspect has not been properly considered by the learned Courts below.

5. After careful perusal of the record, it transpires that in the memo of petition, the age of the minor is stated as 12 years in the factual narration, whereas in ground No.3 it is mentioned as 18 years, which clearly renders the petitioner's stance self-contradictory. Furthermore, it is noted that during the trial proceedings, the age of the minor was specifically mentioned in paragraph No.6 of the plaint as 12 years. The petitioner, in his written statement, failed to specifically traverse or deny the said assertion. Consequently, the contents of paragraph No.6 of the plaint are deemed to have been admitted. It is also an admitted position that no issue regarding the age of the minor was framed by the trial Court, nor was such plea agitated at the trial stage. The petitioner is, therefore, precluded from raising a new factual controversy at the constitutional stage, which was neither pleaded nor proved before the trial Court.

6. It is a settled principle of law that parties are strictly bound by their pleadings, and no new ground can be raised at the constitutional stage unless the same had been specifically pleaded and substantiated before the Courts below. Any deviation from the pleadings amounts to setting up a new case, which is not permissible

under the law.

7. The findings recorded by the learned trial Court as well as the appellate Court are based on proper appreciation of evidence and correct application of law, and do not suffer from any legal infirmity warranting interference by this Court in exercise of its constitutional jurisdiction.

8. In view of the foregoing reasons, this Constitutional Petition, being devoid of merit, was dismissed vide short order dated 04.03.2026. These are the reasons thereof.

JUDGE

Muhammad Danish