IN THE HIGH COURT OF SINDH AT KARACHI

C.P No.S-430 of 2024

(Muhammad Ali Hussain v. Mst. Mariyam Siddiqui and another)

DATE	ORDER WITH SIGNATURE OF JUDGE.

1. For hearing of CMA No.3755/2024.
2. For hearing of main case.

Ms. Sania Mehboob Awan, Advocate for the petitioner.

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Date of hearing : 14.01.2026

Date of Short Order : 14.01.2026

J U D G M E N T

Abdul Hamid Bhurgri, J.- Through this constitutional petition, the petitioner has impugned the judgment and decree dated 16.08.2023 passed by the learned Family Judge, East Karachi, in Family Suit No.449 of 2021, filed by Respondent No.1, as well as the judgment and order dated 11.03.2024 passed by the learned VI-Additional District Judge, Karachi East, in Family Appeal No.205 of 2023, whereby the appeal was dismissed and the family suit filed by Respondent No.1 for dissolution of marriage by way of Khula, recovery of maintenance, dowry articles, as well as original educational certificates and CNICs, was decreed. The present petition has been filed challenging both the aforesaid judgments to the extent of the quantum of maintenance awarded by the courts below.

2. Learned counsel for the petitioner submits that the petitioner is earning Rs.35,000/- per month, whereas the learned trial Court has directed him to pay maintenance in the sum of Rs.10,000/- per month. She further submits that the petitioner is also responsible for maintaining his elderly parents and, therefore, is not in a position to pay the said amount. She contends that both the courts below failed to consider this aspect of the matter and arbitrarily fixed the maintenance at Rs.10,000/- per month. She prays that the impugned judgments may be modified to the extent that the maintenance be reduced to Rs.5,000/- per month.

3. Heard learned counsel for the petitioner and perused the available material on record.

4. Upon examination of the impugned judgments, it is observed that the findings recorded by both the courts below do not suffer from any misreading or non-reading of evidence. The quantum of maintenance

has been fixed after due appreciation of the evidence produced by the parties. Keeping in view the prevailing circumstances, inflationary trends, basic subsistence needs of the respondent, and the earning capacity of the petitioner, the amount of Rs.10,000/- per month cannot be termed as excessive or unreasonable.

5. The obligation to maintain parents, though commendable, does not absolve the petitioner of his statutory duty to maintain his children. This Court finds no illegality, perversity, or jurisdictional defect in the impugned judgments warranting interference in constitutional jurisdiction.

6. It is well-settled that the Family Courts Act, 1964 provides a complete mechanism, and ordinarily, no further appeal lies beyond the appellate forum provided therein. The Honourable Supreme Court has consistently held that constitutional jurisdiction cannot be invoked to circumvent the statutory bar or to seek re-appraisal of evidence in family matters, unless exceptional circumstances are shown. The present petition, therefore, is not maintainable, particularly in view of the settled law governing family disputes. Reliance is placed on the case reported in the case of Arif Fareed v. Bibi Sara & Others (2023 SCMR 413), wherein the apex Court has held as under:-

> *"Before parting with this judgment, we may reiterate that the right of appeal is the creation of the statute. It is so settled that it hardly needs any authority. The Family Courts Act, 1964 does not provide the right of second appeal to any party to the proceedings. The legislature intended to place a full stop on the family litigation after it was decided by the appellate court. However, we regretful, observe that the High Courts routinely exercise their extraordinary jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, as a substitute of appeal or revision and more often the purpose of the statue i.e, expeditious disposal of the cases is compromised and defied. No doubt, there may be certain cases where the intervention could be justified but a great number falls outside this exception. Therefore, it would be high time that the High Court priorities the disposal of family cases by constituting special family benches for this purpose. Accordingly, leave to appeal is refused and petition stands dismissed."*

In the same case, the Honourable Court has held in para 4 as under:-

> *"The object of the Act is to have expeditious disposal of such matters in shortest possible time. "Farzana Rasool v. Dr. Muhammad Bashir" (2011 SCMR 1361). The technicalities and trappings of normal practice and procedure are not*

> *suitable to the cases where very young children are the party."*

Similarly, in M. Hamad Hassan v. Mst. Isma Bukhari and others (2023 SCMR 1434), it has been reiterated that the legislature intended to place a full stop on family litigation after the appellate stage and that constitutional jurisdiction should not be used as a substitute for appeal or revision.

7. In view of the above discussion, this petition was dismissed along with all pending and listed applications by short order dated 14.01.2026 and these are the reasons for the same.

JUDGE

Ayaz Gul