

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. S – 219 of 2024

(Muhammad Imran Abbasi v. Mst. Iqra Abbasi & another)

Date of hearing : 06.03.2025

Date of decision : 06.03.2025

Petitioner, Muhammad Imran Abbasi, present in person.
Ms. Sumbal Urooj Mughal, Advocate for respondents.
Mr. Agha Athar Hussain Pathan, Assistant Advocate General Sindh.

ORDER

Zulfiqar Ahmad Khan, J. – This petition has been filed challenging the concurrent findings of the Courts below, which include the judgment and decree dated 24.06.2024, passed by the learned Family Judge, Sukkur in Family Suit No.173 of 2023, whereby the suit of the respondents (plaintiffs) was partly decreed, and the judgment and decree dated 24.09.2024, rendered by learned Additional District Judge-V, Sukkur in Family Appeal No.47 of 2024, through which the Family Court's decision was maintained.

2. The petitioner's case is that respondent No.1, in her own capacity and as next friend for respondent No.2 (their son), filed a suit for dissolution of marriage through *khula*, return of dowry articles, golden ornaments and maintenance for the minor child. This suit was partly decreed in the following terms:

"In view of above findings, the suit of the plaintiff is partly decreed. During course of proceedings of instant suit, Khula had already been granted to her, so she is not entitled for her maintenance as discussed above, however she is entitled for her iddat maintenance Rs.30,000/- as whole. The minor Muhammad Murtaza is entitled for the maintenance to the tune of Rs.3,500/- (Thirty Five Hundred) per month from the date of filing of suit viz. 27.09.2023 till today i.e. 24.06.2024 and for onwards Rs.8,000/- (Eight Thousand) per month with 20 % increase per annum till his majority. She is entitled for the dowry articles as per receipts viz. Ex...P/1-E Rs.8900/-, Ex...P/1-F of Rs.155,000/-, Ex...P/1-G Rs.36550/-, Ex...P/1-H of Rs.4700/-, Ex...P/1-J of Rs.5200/-,

Ex...P/1-L of Rs.6500/-, Ex...P/1-M of Rs.41,000/-, Ex...P/1-N of Rs.48,000/-, Ex...P/1-O of Rs.3000/- or its equivalent amount as mentioned there. Since the article mentioned in Ex...P/1-K is not explained by the plaintiff for what reason that article was purchased by her, as the word appearing in such receipt as “Zanjeer”, hence she is not entitled for the same. She is not entitled for gold ornaments. Suit is disposed of accordingly. Pending application(s) if any are hereby disposed of being infructuous. Let such decree be prepared in accordance with law.”

3. Being aggrieved, the petitioner preferred an appeal. However, the appeal was dismissed as meritless and time-barred, and the judgment and decree of the Family Court were upheld.

4. The matter was initially called, but Mr. Ashfaq Ahmed, Advocate, holding brief for Mr. Arif Ali Abbasi, Counsel for the petitioner, informed the Court that he was busy before another Bench of this Court. The matter was then taken up again. The petitioner, appearing in person, stated that he had been unable to contact his Counsel. Therefore, the grounds raised in the petition have been treated as the petitioner's arguments. The petitioner contended that the learned trial Court passed the impugned judgment hastily and without adequately considering the record or providing reasonable findings, leading to a decision based on misreading and non-reading of the pleadings and evidence. Both the Courts below allegedly failed to address crucial issues, including the future maintenance of the minor and the annual increase rate. The trial Court unjustifiably granted a 20% annual increase in maintenance, which is beyond the petitioner's financial capacity. The petitioner further argued that the trial Court did not assess his financial situation accurately, as he works in a seasonal business with a modest income. The decisions of both lower Courts are said to be based on conjecture and not on sound evidence. Thus, the petitioner has prayed for the intervention of this Court.

5. Conversely, learned Counsel for the respondents submitted that the judgments and decrees of the lower Courts are well-founded and based on a thorough examination of the facts, evidence and law. The trial Court, after due consideration of the pleadings and evidence presented by both parties, arrived at a just and reasonable decision. The appellate Court rightly upheld the trial Court's decision, as the petitioner failed to show any material error or misapplication of the law. Both lower Courts gave due consideration to the relevant issues, including the future maintenance of the minor, and their findings are consistent with law and evidence presented. Therefore, there is no valid reason for this Court to interfere with the judgments of the Courts below.

6. The record reveals that the marriage between the parties was dissolved by way of *khula* on 23.02.2024 after the failure of pre-trial proceedings. Subsequently, the trial Court, through the judgment and decree dated 24.06.2024, partly decreed the respondents' suit. The trial Court awarded respondent No.1 maintenance for the *iddat* period in the sum of Rs.30,000/- in total and maintenance of Rs.3,500/- per month for the minor child, Muhammad Murtaza, from 27.09.2023 to 24.06.2024, and Rs.8,000/- per month for onwards with a 20% annual increase until the child reaches majority. Respondent No.1, despite the dissolution of the marriage by way of *khula*, was not entitled to maintenance for the period before the dissolution, as she failed to fulfill her marital obligations. The trial Court, however, correctly ordered maintenance for the minor child in accordance with the petitioner's obligations as a father. Dowry articles were awarded based on the receipts provided by respondent No.1, though certain items were excluded due to a lack of adequate explanation from respondent No.1.

7. The appeal filed by the petitioner on 01.08.2024 is time-barred under Rule 22(1) of the Family Court Rules, 1965, which mandates that an

appeal must be filed within thirty days of the passing of the decree, excluding time for obtaining copies. The petitioner has not demonstrated any sufficient cause for the delay. Furthermore, the petitioner has failed to show any legal error or illegality in the trial Court's judgment. The maintenance for the minor child was appropriately determined, and no interference is warranted. The trial Court's findings on the dowry articles are also based on a reasonable evaluation of the evidence.

8. It is a well-established principle that a father has a fundamental duty to provide for the maintenance of his children. This obligation remains, even if it requires physical labour, as long as the father is able-bodied. A UNICEF report on child nutrition in Pakistan highlights that many minors suffer from malnutrition, often not receiving the minimum daily caloric intake of 1200 calories. Given these circumstances, the maintenance amount of Rs.3,500/- per month from the filing of the suit until the judgment, and Rs.8,000/- per month for future maintenance, with a 20% annual increase, is considered minimal. This is likely why the appellate Court upheld the trial Court's decision. Therefore, no further intervention is warranted in this matter under the constitutional jurisdiction.

9. In light of the above, the petition lacks merit and is accordingly **dismissed**. The decisions of both the trial and the appellate Courts are upheld.

J U D G E

Abdul Basit