

ORDER SHEET
**IN THE HIGH COURT OF SINDH
CIRCUIT COURT MIRPURKHAS**

C.P. No.S-101 of 2025

| DATE | ORDER WITH SIGNATURE OF JUDGE |
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1. For orders on office objection.
2. For order on M.A No.1466/2025.
3. For hearing of main case.

03.09.2025

Mr. Mir Pervez Akhter Talpur, Advocate for the petitioner.

ORDER

Amjad Ali Sahito, J:- Through this constitutional petition, petitioner Mst Mariam has challenged the impugned Judgment dated 26.04.2025 passed by the learned Additional District Judge-II/MCAC, Mirpurkhas in Family Appeal No.17 of 2024 [Re-Mst Mariam v. Muhammad Rizwan] whereby dismissed the appeal, which was filed against the impugned Judgment and Decree dated 16.02.2024 passed in Family Suit No.48 of 2023 [Re-Mst Mariam v. Muhammad Rizwan] by learned Civil/Family & Judicial Magistrate, Mirpurkhas wherein suit of the appellant/petitioner was decreed. Hence, the petitioner has approached this Court for setting aside the impugned Judgments and Decree by the Courts below.

2. At the very outset, a pointed query was put to the learned counsel for the petitioner as to whether any statutory remedy remained available to the petitioner subsequent to the filing of Family Appeal against the Judgment and Decree of the learned Family Court, and further, whether the extraordinary writ jurisdiction of this Court could be invoked as a substitute for an appeal, notwithstanding the fact that, under the Family Courts Act, 1964, an appeal against the Judgment and Decree of a Family Court attains finality. However, the learned counsel for the petitioner was unable to provide a satisfactory response.

3. With regard to the submissions advanced by the learned counsel assailing the impugned Judgments and Decree, I find myself unconvinced by his arguments. It is a well-settled

principle of law that this Court, while exercising its constitutional jurisdiction, may interfere only in cases where the impugned orders have been passed without lawful authority or jurisdiction. In the instant matter, the Judgments and Decree were rendered by the courts below within the bounds of their lawful authority and jurisdiction; therefore, they are immune from challenge under constitutional jurisdiction. Moreover, the petitioner has already availed the statutory remedy of appeal, which stands concluded with finality, and as such, the extraordinary writ jurisdiction cannot be resorted to as a substitute remedy. To permit such a course would amount to defeating the legislative intent and purpose.

4. With respect to the appreciation of evidence, it is trite position of law that the evaluation and appraisal of evidence fall within the exclusive domain of the trial court, and thereafter the appellate court. Unless it is established that the findings are vitiated by mala fides, arbitrariness, perversity, or are rendered in excess of jurisdiction, the constitutional jurisdiction of this Court cannot be invoked merely for the purpose of re-evaluating the evidence. In the present case, no such defect has been demonstrated, which would justify interference by this Court.

5. In this regard, guidance may be drawn from the authoritative pronouncements of the ***Hon'ble Supreme Court of Pakistan in Arif Fareed v. Bibi Sara and others [2023 SCMR 413] and M. Hamad Hassan v. Mst. Isma Bukhari and others [2023 SCMR 1434]***.

6. For what has been discussed above, instant petition is **dismissed** in limini along with listed application(s).

JUDGE