

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Const. Petition No.S-71 of 2019

Date	Order with signature of Judge
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For hearing of main case

28-05-2019

Mr. Yameen Ali Khoso, Advocate for the petitioner

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The petitioner filed Family Suit No.59/2016 against the respondent for Dissolution of Marriage on the ground of Khulla and Recovery of Dowry Articles, which was contested by the respondent No.1 by filing written statement. Since the pre-trial proceedings held by the learned Family Judge was failed, marriage between the parties was dissolved by way of Khulla, vide order dated 04.5.2016 and such preliminary decree dated 09.5.2016 was passed whereby petitioner was directed to return Haq Mahar i.e Rs.1000/- to respondent which was paid by the petitioner to respondent under receipt. On the same day viz. 04.05.2016 the learned Family Court framed issues in respect of issue relating to dowry articles and after recording evidence of both the parties the learned Family Court dismissed family suit vide judgment dated 20.02.2017 and decree dated 23.2.2017. However, petitioner preferred an appeal against the said judgment and decree which was heard and allowed by learned 4th Additional District Judge, Khairpur vide judgment dated 25.04.2018 thereby he remanded the case with direction to the Family Court to decide the suit afresh by providing full opportunity to parties to lead their evidence and to discuss each issue separately. Thereafter the matter was again fixed for evidence of plaintiff's side, however the plaintiff failed to adduce any evidence hence plaintiff's side was closed on 05.10.2018 and thereafter the evidence of respondent was recorded but the plaintiff failed to cross-examine him and thereafter the learned Family Court on the appraisal of the evidence on record dismissed the suit of the petitioner vide judgment and decree dated 12.11.2018. Against that the petitioner preferred family appeal on 16.01.2019

before the learned District Judge, Khairpur which was dismissed vide order dated 28.01.2019 on the ground of limitation as the same was filed after limitation period with delay of 40 days.

The only contention of learned counsel for the petitioner is that the petitioner is serving in an N.G.O and posted at Tharparkar, therefore, she was not aware of passing of impugned judgment and decree.

I am afraid the conduct of the petitioner shows that she was negligent from the initial stage of the case as she failed to appear before the trial Court when the matter was fixed for recording of evidence and thereafter her suit was dismissed by the learned trial Court vide judgment dated 20.02.2017 and decree dated 23.2.2017 and thereafter again when the matter was remanded by the learned appellate Court, she did not turn up for recording her evidence before the trial Court and resultantly again her side for evidence was closed by the learned trial Court and thereafter the suit was dismissed vide judgment and decree dated 16.01.2019. Again the petitioner was sleeping over her right as she did not preferred appeal against the said judgment and decree within prescribed period, thus her appeal was dismissed by the appellate Court on the ground of limitation. It is well settled principles of law that the law favours the vigilant and not to negligent in pursuing his remedy. It is also well settled principle of law that the valuable rights accrued to succeeding party in the litigation on the expiry of limitation period.

Accordingly, this petition being devoid of merit is dismissed in limine along with listed application

JUDGE

