

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Const. Petition No.S- 209 of 2023
Const. Petition No.S- 105 of 2025

Mr. Imtiaz Ali Abbasi, Advocate for petitioner in both petitions.
Mr. Aftab Ahmed Malano, Advocate for respondent in both petitions.
Mr. Israr Ahmed Shah, Assistant Advocate General.

Date of Hearing : 12-10-2026
Date of Order : 12-10-2026

ORDER

MUHAMMAD HASAN (AKBER), J:- In **C.P. No. S-209 of 2023**, the concurrent Judgments passed by the two Courts below have been assailed, whereby, while allowing her Family Suit No. 399 of 2020 for Khulla, the learned trial Court directed the petitioner to return seven (07) tolas of gold to the Respondent.

2. Both learned Advocates have vehemently argued their respective cases. Per learned counsel for the petitioner, the said decree was passed by learned trial Court only because the attorney and witness of the respondent could not be cross-examined by the petitioner's side, due to unavoidable circumstances, and her right to cross-examine was closed, based whereon, the impugned decree was passed. He further pleads the petitioner's right to a fair trial under Article 10-A of the Constitution and also proposes to compensate the Respondent only if an opportunity is allowed to cross-examine the attorney and witness of the respondent.

3. Learned counsel for the respondent, after arguing at some length, submits that the respondent has no objection to the same, subject, however, to payment of Rs.25,000/- by the petitioner to the respondent within a period of seven days from today, and only upon compliance thereof, the petitioner be allowed an opportunity to cross-examine the attorney and witness of the respondent.

4. Hence, by consent of both learned Advocates, the impugned Judgments and decrees are hereby set aside, only to the extent of the direction to hand over seven (07) tolas of gold ornaments to the Respondent, whereas the remaining part of decrees shall remain upheld. The above order is subject to payment of Rs.25,000/- by the Petitioner to the Respondent within a period of seven (07) days from today with the

Additional Registrar of this Court, receipt whereof be submitted in this petition under the cover of a statement. Subject to the above, the matter is remanded back to the trial Court from the stage of cross-examination of the attorney and witness of the Respondent, which the Petitioner may conduct. The rest of the evidence shall remain the same. Whereafter the learned trial Court may proceed to pass a fresh Judgment based on the evidence led by both parties. Such exercise shall be completed within a period of 30 days from the date of receipt of this order, without granting unnecessary adjournments to either side, and a Compliance Report shall be filed before the Additional Registrar of this Court.

5. In **C.P. No. S-105 of 2025**, the impugned Order dated 09.01.2024, passed by learned Family Judge in Execution Application No. 43 of 2023, and the Order dated 08.04.2025, passed by the learned Appellate Court in Family Appeal No. 52 of 2024, maintaining the order of the Executing Court, have been assailed. Since the impugned Judgments and decrees have already been set aside in terms of the above arrangement between the parties, Execution Application No. 43 of 2023, which arose in consequence of the above impugned Judgments and decrees, has also practically become infructuous.

6. Both these petitions, along with pending application(s), are therefore disposed of in the above terms.

Office to place a signed copy of this order in captioned connected matter.

J U D G E