

# IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

## Constitutional Petition No.5-682 of 2016

[Chander Vs. Shirimati Hemi & others]

Petitioner: Through Mr. Muhammad Hashim Laghari, advocate.

Respondent-1: Through Mr. Aghis-U-Salam Tahirzada, advocate.

Respondents-2&3: Through Mr. Allah Bachayo Soomro, Additional Advocate General, Sindh.

Date of hearing & order: 14.11.2022.

### ORDER

**ADNAN-UL-KARIM MEMON, J.** Through instant constitutional petition, petitioner has challenged the legality of impugned order dated 23.04.2016 passed by learned District Judge Mirpurkhas in Family Appeal No.17 of 2016 whereby the learned Judge while dismissing the appeal maintained the order the order dated 22.03.2016 passed by Family Judge, Mirpurkhas in Family Execution No. 01 of 2015.

2. The facts necessary leading to the present petition are that respondent No.1 filed Suit for judicial separation by way of dissolution of marriage, recovery of dowry articles & maintenance on the pleadings that as per Hindu laws she married with petitioner on 20.04.2007. At the time of marriage her parents given her dowry articles including gold and silver ornaments and domestic animals. After *Rukhsati* she started living with petitioner and from the said wedlock three children were born but as time has passed she found the petitioner being cruel towards her as well as short-tampered man who used to maltreat her, hence, she filed the aforesaid suit. The said suit was decreed by learned Civil & Family Judge Pithoro vide Judgment dated 28.02.2015. The said Judgment was not challenged by the petitioner attained finally; however, in execution application filed by respondentNo.1 the petitioner appeared and filed application for paying amount in installment of Rs.2500/- per month which was declined. Hence he filed Family Appeal which was also dismissed hence the instant petition.

3. I have heard learned counsel for the parties and also gone through the record with their assistance.

4. The examination of record reveals that the decrees have already attained finality. It is also settled that where a decree relates to payment of money and the decretal amount is not paid within the time specified by the Court, the same shall, if the Court so directs, be recovered as arrears of land revenue, and on recovery shall be paid to the decree-holder.

5. The Courts below through impugned order, directed the petitioner/ judgment-debtor to pay the entire decretal amount in installments and Rs.4000/- per month for minors, subject to security in the shape of immovable property in the like amount. It is important to observe here that against such direction of Family Court, for making payment of decretal amount, no provision of appeal or revision has been postulated under Family Courts Act, and allowing an appeal against such like orders at the execution stage of decree of Family Court, would tantamount to defeat the very purpose of expeditious settlement of family affairs; hence no case for payment through installment is made out, accordingly this petition is dismissed with cost.

JUDGE

Karar\_Hussain/PS\*