

Order Sheet

IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

C. P No. S – 18 of 2023

Date

Order with Signature of Hon'ble Judge

Hearing of case

1. For orders on Office objection at Flag 'A'
2. For hearing of CMA No.74/2023 (S/A)
3. For hearing of main case

26.05.2023

Mr. Faiz Muhammad Brohi, Advocate for the Petitioner
Mr. Badaruddin Memon, Advocate for Private Respondent
Mr. Asfandyar Kharal, Assistant Advocate General Sindh

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JUDGMENT
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ZAFAR AHMED RAJPUT, J;- The respondent No.3 herein filed a Family Suit bearing No.482/2021 for Dissolution of Marriage by way of *Khulla* and return of dowry articles against the petitioner, who contested the Suit by filing his Written Statement. Learned Family Judge, Sukkur after framing issues and recording *pro and contra* evidence of the parties decreed the Suit partly in favour of the respondent No.3, entitling her for the dowry articles as per list or in case of damage or otherwise payment of Rs.80000/- (*Rupees Eighty thousand Only*) except articles mentioned as gold set of 3.5 tolla, Silver set, nose pin and gold gents ring. She was also held entitled for the maintenance up to her *Iddat* period at the rate of Rs.5000/- per month, total Rs.15000/- of three months, vide judgment and decree dated 17.11.2022. Against that, the petitioner preferred Family Appeal No.65/2023, which was heard and dismissed by the learned Additional Sessions Judge-V, Sukkur vide judgment dated 12.01.2023. It is against that concurrent findings of the Courts below that the instant petition has been preferred by the petitioner.

Heard the learned counsel for the parties and perused the material available on record.

Record shows that the petitioner and the respondent No.3 are first cousins *inter se* they were married on 24.05.2005 and at the time of their marriage, the petitioner as well as the respondent No.3 were residing in the premises owned by their grand-father in separate portions and after their marriage, the respondent No.3 shifted to the portion of the petitioner's father to reside with the petitioner. The respondent No.3 along with his plaint filed a list of dowry articles.

Learned counsel for the petitioner while referring to deposition of the respondent No.3 has argued that it is an admitted fact that the petitioner as well as the respondent No.3 were living in the same premises which is owned on record by their deceased grand-father; the petitioner got second marriage and after that he left his father's portion and all the dowry articles were lying in the "House"; hence, admittedly when the dowry articles were lying in the house, no question arises of taking or retaining dowry articles of the respondent No.3 by the petitioner with him while leaving the portion of his father, hence, the claim of the respondent No.3 in this regard is false and baseless.

I have gone through the deposition of Respondent No.3, wherein she has stated that "the defendant got second marriage and after that he left and all the dowry articles are lying in the house". Here the house does not mean the portion which was in possession of parents of the respondent No.3, but the portion which was in possession of the petitioner and/or his father. This fact finds support from para-4 of the judgment passed by the Family Court, wherein the Family Court has observed that on 26.01.2022 pre-trial proceedings were failed and Khulla was granted to respondent No.3; the petitioner admitted that *Almari, bed, petti, sofa, sewing machine* were lying at his house but no other article was available.

For the foregoing facts and reasons, I find no illegality or irregularity in the impugned judgments and decrees passed by the Courts below requiring any interference by this Court under its Constitutional jurisdiction under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, hence, this petition being devoid of any merits is dismissed accordingly along with pending application.

Judge

ARBROHI