

Order Sheet

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.S-597 of 2021

DATE ORDER WITH SIGNATURE OF JUDGE(S)

For orders s to non-prosecution of MA-501/23 (restoration)

25.10.2023

Mr. Abdul Shakoor Keerio advocate for petitioner.

This petition was dismissed for non-prosecution on 06.03.2023. A restoration application was filed and the same is hereby allowed; petition restored. Learned counsel is directed to argue the petition.

It is articulated that this petition assails the concurrent findings rendered by the trial Court and the learned appellate Court in the family jurisdiction. A suit for recovery of dower amount, maintenance and dowry articles was filed against the petitioner and the same was decreed on 12.11.2020. The petitioner filed an appeal against there and the same was also dismissed by the VI-Additional District Judge, Hyderabad vide judgment dated 23.09.2021. After exhausting the statutory remedial hierarchy, the writ jurisdiction of this Court was invoked.

It is the crux of the learned counsel's submissions that the evidence was not properly appreciated by the respective forums and the payment that he claims to have made was neither recognized by the trial Court nor subsequently the appellate Court. The present jurisdiction is revisionary and not appellate, however, notwithstanding the same the learned counsel remained unable to substantiate his assertion from the record. It is observed that he could not demonstrate that the respective judgments could not have been rested on the rationale cited.

The matter has been conclusively determined and per statute, finality is attached to the appellate order referred to supra. This petition *prima facie* unjustifiably assails the concurrent findings of the statutory hierarchy in the writ jurisdiction of this Court; however, the same has been disapproved by the Supreme Court in *Hamad Hasan*¹ and earlier similar views were also expounded in *Arif Fareed*². Therefore, in *mutatis mutandis* application of the reasoning and ratio illumined, this petition is found to be misconceived, hence, dismissed with listed application.

Judge

¹ Per Ayesha A. Malik J in *M. Hamad Hassan vs. Mst. Isma Bukhari & Others* reported as 2023 SCMR 1434.

² Per Amin ud Din Ahmed J in yet to be reported judgment dated 06.12.2022 delivered in *Arif Fareed vs. Bibi Sara & Others* (Civil Petition No.5601 of 2021).