

IN THE HIGH COURT OF SINDH AT HYDERABAD

CP S-117 of 2021 : Mst. Zainab Bibi d/o Gul Zada
For the Petitioner/s : Mr. Ayaz Hussain Chandio, Advocate.
For the respondent/s : Mr. Wali Muhammad Jamari, Assistant
A.G Sindh.
Date/s of hearing : 26.10.2023.
Date of announcement : 26.10.2023.

ORDER

Agha Faisal, J. This petition challenges the concurrent judgments rendered in the family jurisdiction. A suit for maintenance, dowry amount and recovery of dowry articles was filed by the petitioner, Family Suit No.266 of 2018, before the Civil Judge & Judicial Magistrate, Jamshoro and the same was decided vide judgment dated 29.11.2019. The record demonstrates that after appreciation of evidence and deliberation the claim for dowry articles was found to be unsubstantiated, however, maintenance was allowed. The petitioner filed family Appeal No.01 of 2020 before the District Judge, Jamshoro and the same was also dismissed, hence, the present petition.

The entire case of the petitioner is that the evidence of the petitioner was not appreciated in its proper prospective by the respective forums and in such regard he requires *de novo* appreciation of the evidence, specially the depositions of witnesses. It is pertinent to observe that the writ jurisdiction ought not to be considered a second stage of appeal and in any event is not amenable for appreciation of evidence.

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

Ahmed/Pa,

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).