

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

IInd Appeal No.86 of 2024

Order with signature of Judge(s)

Priority

1. For orders on CMA No.3051/2024 (Urgent Application)
2. For orders on office objection a/w reply as at 'A'
3. For hearing of CMANo.2887/2024 (Stay Application)
4. For hearing of main case

15.03.2024

Mr. Zafar Ali Sipyo, Advocate for the appellant

1. Urgency granted.

2. Deferred.

3&4. Appellant is present alongwith the counsel and states that writ has been issued against the petitioner through order dated 13.03.2024. Counsel for the appellant points out that there are serious illegalities in both the judgments i.e. of the trial Court as well the appellate Court, as the matter evidently from the perusal of the plaint pertained to a family dispute that arose once the couple got married on 09.06.2019, where the petitioner alleged that as part of dower, suit property was entrusted upon her whereas the plaintiff filed ordinary civil suit as to declaration, possession and means profit. Counsel states that Schedule under Section 5, Part-1 of the Family Court Act states that all matters pertaining to dower have to be heard by family courts and not by civil court, which lacuna was observed by the learned appellate Court, which ought to have remanded the matter back to the family court for *de novo* trial, but rather, conveniently *set aside* the finding given on Issue Nos.3 and 4 pertaining to the dower dispute and kept remaining findings intact. He re-agitates that the writ has been issued out of the judgment dated 24.02.2024 passed in Civil Appeal No.196 of 2023, which arose out of impugned trial Court's judgment dated 17.11.2023 passed in Civil Suit

No.667 of 2020, which has been passed by a court lacking jurisdiction. Suspension of both the judgments and execution proceedings is sought.

Contentions raised by the counsel for the appellant require consideration. Issue notice to the respondent for **19.03.2024**. In the meanwhile, operation of the impugned judgments dated 17.11.2023, 24.02.2024 as well as execution proceedings emanating therefrom including order dated 13.03.2024 to remain suspended.

JUDGE

B-K Soomro