

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

**Constitution Petition No. S – 140 of 2025**

**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

1. For orders on CMA No.2112/2025 (U/A).
2. For orders on office objections 1 to 4 a/w reply as at 'A'.
3. For orders on CMA No.1276/2025 (Exemption).
4. For orders on CMA No.1277/2025 (Stay)
5. For hearing of main case.

**20.03.2025**

Mr. Mujeebullah Panhwar, Advocate for the Petitioner.

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1. Urgency granted.
3. Exemption is granted subject to all just exceptions.
- 2,4-5. Learned counsel has impugned orders dated 12.11.2024 passed in Family Execution No.29/2024 arising out of Family Suit No.1536/2023.

Brief facts of the case are that the Respondent filed Family Suit No.1536/2023 for recovery of maintenance, dower amount and gold ornaments with the following prayer:

- A. To direct the defendant to pay the Iddat Period Maintenance of the plaintiff No.1 from December 2022 till completion of Iddat period @ Rs.25,000/- per month.
- B. To direct the defendant to pay the past & future maintenance of the plaintiff No.2 from December 2022 till the marriage of the plaintiff No.2, at the rate of Rs.20,000/- per month with increment of 20%.
- C. To direct the defendant to handover/return back the all Gold ornaments relating to the plaintiff No.1 which comes to total 18 Tola Gold ornaments.
- D. Cost of the suit.

Thereafter the Petitioner has filed his written statement and participated in the proceedings. Further he conducted cross-examination of the plaintiff and the suit was finally decreed on 20.02.2024. Learned counsel thereafter filed an application under Section 12(2) CPC r/w Order IX Rule 13 CPC (despite the fact that he has participated in the proceedings of the Family Suit) on the grounds that the Iqarnama was wrongly interpreted by the learned trial Court while

adjudicating the suit. Thereafter the application under Section 12(2) CPC was dismissed vide order dated 11.11.2024.

It is a settled principle of law that an application under Section 12(2) CPC can be filed if the judgment and decree has been procured through fraud and misrepresentation. The learned counsel was specifically asked to point out the fraud which can nullify the judgment and decree of the trial Court. Learned counsel relied upon the Iqarnama and argued regarding its admissibility.

In view of above, I find no merit in the application filed by the learned counsel for the Petitioner. Learned counsel could have filed an application under Section 14 of the Family Courts Act 1964, but he has admittedly chosen to file an application under Section 12(2) CPC just to avoid the period of limitation as set out in the Family Courts Act 1964. The instant petition merits no consideration and the same is hereby dismissed in limine with no order as to cost.

JUDGE

Nadeem Qureshi "PA"