

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Constitution Petition No.S-1204 of 2024

Date	Order with signature of Judge
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Hearing / Priority:
1. For hearing of CMA No.9163/2024
2. For hearing of main case.

27th February, 2025

Petitioner Syed Waqas Ali Tirmizi, present in person.
Mr. Owais Ahmed Siddiqui, Advocate for Respondents
No.2-3
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Amjad Ali Sahito, J:- Through this constitutional petition, petitioner Syed Waqas Ali Tirmizi has challenged the judgment dated 06.09.2024 passed by learned X-Additional District Judge, Karachi East/Appellate Court in Family Appeal No.87 of 2024 [Re-Syed Waqas Ali Tirmizi v. Learned XXIth Family East and others) whereby dismissed the appeal, which was filed against the judgment and decree dated 13.02.2021 passed in Family Suit bearing No.1763/2022 [Re-Mst. Aisha v. Syed Waqas Ali Tirmizi] by learned Civil/Family Judge-XXI, Karachi East, wherein Family Judge decree the suit entitling the plaintiff for maintenance of minor from the defendant at the rate of Rs.20,000/- per month till his legal entitlement with 10% per annual increment. Hence, the petitioner has approached this Court for setting aside the impugned judgments and decrees passed by the Courts below.

2. A specific question was put to the petitioner as to whether any remedy is available with the petitioner after filing Appeal against the judgment and decree of learned Family Court and as to whether the writ jurisdiction of this Court can be exercised as a substitute of appeal or revision despite fact that an Appeal against the judgment and decree of Family Court is final under the Family Courts Act, 1964, but the Petitioner could not reply satisfactory.

3. So far, the Petitioner questioned the impugned judgments and decrees of the courts below, I am not influenced with his arguments as this Court has to look into the matters under constitutional jurisdiction which are passed without lawful authority and jurisdiction. Nevertheless the impugned judgments and decrees have been passed by the courts below within lawful authority and jurisdiction, therefore, the same are not open to Constitutional jurisdiction. More so, the petitioner is possessed with remedy of appeal and he cannot invoke the Constitutional jurisdiction after exhausting the remedy of appeal, which is final. If the Constitutional jurisdiction is exercised without any jurisdictional defect or infringement of fundamental rights then the intent and purpose of Legislature would be frustrated. So far question regarding appreciation of evidence is concerned, it needs no reiteration that appraisal of evidence is the function of the Family Court firstly and then the Appellate Court. Nothing is pointed out that there is mala fide, arbitrary, perverse or the Court has acted in excess of its jurisdiction, which may consider to exercise of writ jurisdiction. The Family Courts Act, 1964 does not provide the right of second appeal to any party of the proceedings. In this regard, I am also fortified with the observations of Hon'ble Supreme Court of Pakistan made in *ARIF FAREED v. BIBI SARA and others [2023 SCMR 413]* and *M. HAMAD HASSAN v. Mst. ISMA BUKHARI and 2 others [2023 SCMR 1434]*.

4. For what has been discussed above, instant petition is **dismissed** in limini along with listed application.

J U D G E