IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P No. S-102 of 2026
[Mst. Sobia Ibrahim v. Imtiaz Ali & another]

Mr. Mian Taj Muhammad Keerio advocate for petitioner

Date of hearing & Order: - 13.02.2026.

O R D E R

***RIAZAT ALI SAHAR, J*: -** Through this Constitutional Petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has called in question the Judgment & Decree dated 20.12.2025 passed by the learned Vth Additional District Judge, Hyderabad, in Family Appeal No.94 of 2025, whereby the appeal filed by the petitioner against order dated 23.07.2025 passed by learned Judge, Family Court-VIII, Hyderabad, in Family Execution Application No.09 of 2025, was dismissed as not maintainable. The petitioner has further sought setting aside of order dated 23.07.2025 as well as consequential relief in respect of original Judgment & Decree dated 14.11.2024 passed in Family Suit No.1550 of 2023.

2. The background of the case is that the petitioner had instituted a Family Suit bearing No.1550 of 2023 before the learned Judge, Family Court-VIII, Hyderabad, seeking dissolution of marriage, recovery of dower, maintenance and return of dowry articles. After recording evidence of the parties, the learned trial Court vide Judgment & Decree dated 14.11.2024 decreed the suit to the extent that the petitioner was held entitled to maintenance for iddat period at the rate of Rs.10,000/- per month (total Rs.30,000/-) and recovery of dowry articles as per list Ex.11/B, with a direction to the Respondent No.1/defendant to return the dowry articles or in the alternative, to pay Rs.150,000/- (One hundred fivty thousand only) to the petitioner. Admittedly, the said Judgment & Decree was not challenged by either party before any appellate forum and accordingly attained finality.

3. Later, the petitioner filed Family Execution Application No.09 of 2025 for satisfaction of the decree. During execution proceedings, the respondent/judgment-debtor deposited an amount of Rs.1,80,000/- before the Court, comprising Rs.1,50,000/- as alternate value of dowry articles and Rs.30,000/- towards maintenance for iddat period, in compliance with the decree. The learned Executing Court, after issuing notice and hearing the parties, observed that the decretal amount had been deposited and consequently disposed of the execution application vide order dated 23.07.2025, declaring the decree satisfied. On the same date, the petitioner filed an application under Section 151 CPC seeking recall/modification of the order to the extent that she be allowed recovery of dowry articles instead of the alternate monetary amount. The learned Executing Court dismissed the said application holding that the decree had already been satisfied and no ground for invoking inherent jurisdiction was made out. Against the dismissal of application, the petitioner preferred Family Appeal No.94 of 2025, which too was dismissed by the learned Vth Additional District Judge, Hyderabad, vide Judgment & Decree dated 20.12.2025 on the ground that the decree had attained finality, stood satisfied and the appeal was not maintainable. Hence, the present Constitutional Petition.

4. Learned counsel for the petitioner contends that the Courts below misread and misconstrued the decree dated 14.11.2024. He contends that the decree for recovery of dowry articles was a decree for specific movable property and the alternate monetary clause was merely conditional, the option of which exclusively vested in the decree-holder. He contends that the respondent could not unilaterally choose to deposit the alternate amount against the will of the petitioner and the Executing Court had no jurisdiction to treat such deposit as full satisfaction of the decree. Learned counsel further contends that dismissal of application under Section 151 CPC was illegal and without lawful authority and that the appellate Court failed to appreciate the settled principles governing execution proceedings. He prays that the impugned judgments be set aside and the Executing Court be directed to ensure actual delivery of dowry articles to the petitioner.

5. During the course of hearing, learned counsel for the petitioner was specifically confronted with the position that the original Judgment & Decree dated 14.11.2024 had admittedly not been challenged and had attained finality; further, the decretal amount, including the alternate value of dowry articles, had been deposited in execution proceedings and the Executing Court had declared the decree satisfied. Learned counsel was asked to explain how, after such satisfaction and finality, the matter could be reopened in constitutional jurisdiction. However, no satisfactory response was offered, nor could learned counsel point out any illegality of jurisdiction in the impugned orders warranting interference under Article 199 of the Constitution. Furthermore, on the last date of hearing, notice was ordered to be issued to the respondents. However, the petitioner failed to supply copies of the memo of petition and annexures as well as process fee for issuance of notice to the respondents. Such conduct reflects lack of diligence in the proceedings.

6. Heard and perused the record.

7. **It is an admitted position that the original Judgment & Decree dated 14.11.2024 passed by the learned Judge, Family Court-VIII, Hyderabad, was never challenged before any competent appellate forum, as such, the decree attained finality**. As per decree the respondent No.1 was categorically directed to return the dowry articles as per list or in the alternative to pay Rs.1,50,000/- (One hundred fifty thousand) to the petitioner. The decree itself incorporated an alternate relief. Once such decree was passed and not challenged, its terms became binding upon the parties. In execution proceedings, the respondent deposited the entire decretal amount, including the alternate value of dowry articles as well as maintenance for iddat period. The Executing Court, upon verification, declared the decree satisfied. At that stage, instead of having challenged the original decree or seeking clarification at an earlier point of time, the petitioner sought modification of the mode of satisfaction in terms of section 151 CPC. The learned Executing Court rightly held that it could not travel

beyond the decree or alter its substance and once the alternate amount had been deposited in terms of the decree, the decree stood satisfied. The appellate Court also examined the record and concurred with the Executing Court, holding that the decree had attained finality and the application under Section 151 CPC was not maintainable.

8. It is also of substantial significance that the petitioner remained completely silent after passing of the Judgment & Decree dated 14.11.2024 and did not challenge its terms before any appellate forum, thereby allowing the same to attain finality. Such inaction obviously reflects her acceptance of the decree in its entirety, including the alternate relief granted therein. The execution application was thereafter filed for satisfaction of the very same decree and once the respondent deposited the alternate amount strictly in accordance with its terms, the **decree stood satisfied** and the matter reached its lawful conclusion. The subsequent filing of an application seeking to alter the mode of satisfaction was, in substance, an attempt to reopen a disposed of matter, which is impermissible in law. If such a course were allowed, it would challenge the principle of finality of litigation and erode the sanctity attached to judicial determinations. Constitutional jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 is discretionary and equitable in nature and is not intended to reopen concluded controversies or to substitute concurrent findings of fact recorded by Courts below, particularly in the absence of any jurisdictional defect or patent illegality. In the present case, no perversity, misreading of record or lack of jurisdiction has been demonstrated; rather, the record clearly shows that the decree was satisfied in accordance with its express terms. Moreover**, the conduct of the petitioner attracts the doctrine of estoppel and acquiescence as embodied in Article 114 of the Qanun-e-Shahadat Order, 1984**, for having permitted the decree to attain finality and the execution proceedings to culminate in satisfaction without timely objection, she cannot now be allowed to resile from that position. Equity does not favor a litigant who, by omission or inaction, allows another to act upon a settled legal position and thereafter seeks

to challenge the very consequence arising therefrom. The petitioner's silence until the decree became final and satisfied constitutes acquiescence and she is thus estopped from asserting a contrary claim at this belated stage.

9. For what has been discussed above, I do not find any jurisdictional defect, misreading of record, or material illegality in the impugned judgment dated 20.12.2025 warranting interference under Article 199 of the Constitution by observing that since original judgment and decree dated 14.11.2024 has already attained finality and stood satisfied in execution proceedings, therefore, any attempt to reopen the matter at this tage is legally untenable. Consequently, instant petiton is **dismissed** along with pending application(s), with no order as to costs.

JUDGE

Abdullah Channa/PS