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**Judgment Sheet**

**IN THE LAHORE HIGH COURT**  
**MULTAN BENCH MULTAN**  
**(JUDICIAL DEPARTMENT)**

**W.P.No.16587 of 2021**

**Fouzia Barkat etc.**

**Vs.**

**Additional District Judge etc.**

**JUDGMENT**

<b>Date of Hearing</b>	<b>14.10.2025</b>
Petitioners by:	Rana Amjad Mehmood, Advocate.
Respondent No.3 by:	Mr.Kashif Hussain, Advocate

**Syed Ahsan Raza Kazmi, J.** Through this writ petition, the petitioners have challenged the judgments and decrees dated 31.03.2021 and 20.09.2021 passed by learned Courts below.

2. The brief facts of the case are that the petitioner No.1 filed a suit for dissolution of marriage, recovery of maintenance allowance etc. against respondent No.3 before the learned Family Court which was contested by him through filing contesting written statement and the learned Family Court after framing of issues invited the parties to adduce their respective evidence which they produced and after appreciating the same, the suit of the petitioners was partly decreed *vide* judgment and decree dated 31.03.2021.

3. Being aggrieved, both sides preferred their appeals before the learned Appellate Court. The respondent No.3 also filed an application for production of additional evidence before the learned Appellate Court. The learned Appellate Court dismissed the appeal filed by the petitioner whereas accepted the appeal along with application for production of additional evidence filed by the respondent No.3 *vide* judgment and decree dated 20.09.2021 and remanded the matter to the learned Family Court for decision afresh.

4. Learned counsel for the petitioner contends that impugned judgments and decrees passed by the learned Courts below are illegal and unlawful and the learned Courts below remained fail to appreciate the evidence as well as material available on record in its true perspective and their decisions are based on misreading and non-reading of evidence as well as material available on file, therefore, decisions are liable to be set aside.

5. Conversely, learned counsel for the respondent No.3 supported the impugned judgment and decree dated 20.09.2021 passed by the learned Appellate Court and prayed for dismissal of instant Writ Petition.

6. I have heard the arguments of learned counsel for the parties and perused the record.

7. Before advertig to the merits, it would be prudent to elucidate the mechanism and requirements of the Family Courts Act, 1964 (**the Act**), to ensure a thorough understanding of the legal framework governing the dispute between the parties regarding the matrimonial issues, thereby facilitating a just and informed adjudication.

8. Prior to the enactment of the Muslim Family Laws Ordinance, 1961, and the Act, cases related to maintenance/matrimonial issues were being handled by Civil or Criminal Courts, often resulting in prolonged proceedings and inadequate relief for women and minors. The Family Courts Act was promulgated to address these issues and to provide a more efficient and effective mechanism for resolving domestic disputes. In that context, the Act has undergone multiple amendments to prevent delaying tactics used by the parties and to ensure timely relief for affectees.

9. The Family Courts Act, 1964, as declared in its preamble, was enacted “to make provision for the establishment of Family Courts for the expeditious settlement and disposal of disputes relating to marriage

and family affairs and for matters connected therewith.” It is, therefore, a remedial and socially beneficent statute, animated by a legislative resolve that domestic conflicts must not be imprisoned in procedural rigidity but resolved through a humane, simplified, and time-bound process. The framework of the Act reinforces this intent at every stage. **Section 9** ensures early production of relied-upon documents to avoid delay; **Section 10** mandates completion of pleadings with expedition; **Section 12-A** obliges disposal of cases within six months, allowing supervisory recourse to the High Court in the event of delay; **Section 14 (4)** requires that appeals be decided within four months; **Section 17-A** authorizes interim maintenance to alleviate immediate hardship; and **Section 21-A** empowers the Court to preserve and protect disputed property during pendency to prevent injustice. The Act further caps the right of appeal to one, ensuring finality and preventing protracted litigation. Furthermore, Family Courts are not required to adhere to the strict procedures of CPC and Qanun-e-Shahadat Order.

Collectively, these provisions and scheme manifest a coherent legislative design that prioritizes substance over technicality and speed over formality, recognizing that delay in family litigation inflicts continuing harm upon women and minors whose welfare cannot await leisurely adjudication. The Family Court, therefore, stands not merely as a forum of trial but as a fiduciary of prompt and compassionate justice—bound by both law and equity to translate the legislative command of swift adjudication into practical reality.

10. It is well-settled that Family Courts possess the discretion to accept additional evidence where the ends of justice so require, subject to reasonable restrictions and safeguards that ensure fairness to both parties. Sections 9(2) and 9(4) of the Family Courts Act, 1964, oblige defendants to produce and share all relied-upon documents with the plaintiff along with the written statement. However, as the statute prescribes no penal consequence for non-compliance, these provisions are directory rather than mandatory, vesting the Family Court with

judicial discretion to permit late filing or production of documents. Yet, such discretion is not unfettered; it must be exercised judiciously, in furtherance of justice and the legislative object, considering the relevancy of the document, the cause for delay, and the absence of prejudice to the opposing side.

11. The Hon'ble Supreme Court of Pakistan has underscored the importance of adopting a purposive and liberal interpretive approach toward family statutes. The law must be construed to advance the object of social welfare, not to obstruct it through procedural formalism. Accordingly, Family Courts should interpret their enabling statute in a manner that fosters substantive justice, promotes expeditious relief, and prevents technicalities from defeating legitimate claims.

12. Reverting to the present case, the record reveals that the petitioners instituted a suit for recovery of maintenance, dower, and dowry articles on 20.07.2018. The respondent entered appearance on 02.11.2018 and, after multiple adjournments, filed his written statement on 13.12.2018. Issues were framed on 03.04.2019, and the petitioners' oral evidence was recorded on 15.04.2019. The matter was thereafter adjourned for cross-examination and documentary evidence, yet despite repeated opportunities, the respondent failed to adduce his evidence, resulting in closure of his right under order dated 31.03.2021. Subsequently, after hearing arguments, the learned Family Court decreed the suit, holding as under:

*Marriage of the parties was dissolved subject to surrender of 25% of prompt and 50% of deferred dower if any by the petitioner No.1 and holding her entitled to recover maintenance allowance @ Rs.5,000/- per month for iddat period, delivery expenses @ Rs.30,000/- and to receive Rs.250,000/-as alternate price of the dowry articles besides entitling petitioner No.2 to receive his maintenance allowance @ Rs.5,000/- per month with 10% annual increase subject to deduction of amount of interim maintenance.*

13. Both sides challenged the said decree in appeal. Respondent No.3 sought to set aside the decree, while the petitioner filed for enhancement/modification. Alongside the appeal, the respondent No.3 submitted an application for production of an Acknowledgment Deed dated 05.10.2019 as additional evidence regarding dowry articles, which was allowed by the appellate court. The appellate court consequently remanded the case to the trial court while dismissing the appeal filed by petitioner.

14. A careful appraisal of the impugned appellate judgment reveals that the appellate court erred in setting aside the trial court's well-reasoned order closing the respondent's right of documentary evidence without recording any valid justification. Judicial orders must be speaking and self-explanatory, demonstrating application of mind to the facts and law. Reliance on mere assumption or perceived relevance of a document—without articulating reasons—renders the order arbitrary and legally infirm. Parties who bring their disputes before courts are entitled to reasoned adjudication that reflects a conscious and lawful exercise of judicial power.

15. The respondent's attempt to introduce the Acknowledgment Deed belatedly raises serious doubts about its authenticity and bona fides. It is contrary to logic and human conduct that the respondent would voluntarily return dowry articles without court supervision while the matter was still pending trial. Such conduct casts grave suspicion on the genuineness of the alleged document and undermines the credibility of the respondent's plea.

16. The record further discloses that the Acknowledgment Deed was executed on 05.10.2019, prior to recording of evidence, yet the respondent neither produced it during trial nor confronted the petitioner's witnesses with it. Even in his own evidence (Exh.D1)<sup>1</sup> and (Exh.D2)<sup>2</sup> he admits that some dowry articles remained in his

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<sup>1</sup> Para 5 of affidavit of respondent No.3.

<sup>2</sup> Para 5 of affidavit of mother of respondent No.3.

possession, thereby contradicting his stance and weakening his defence. This omission corroborates the inference that the document was an afterthought. Furthermore, it is a settled principle that one cannot do indirectly what is prohibited directly. In this case, respondent No. 3 had multiple opportunities to produce documentary evidence but failed to do so, leading the Family Court to close his right to do so. The application for additional evidence appears to be an attempt to circumvent this order. The Appellate Court's acceptance of said application is erroneous in law.

17. The appellate court also fell into error in entertaining the appeal filed by respondent No.3 against the maintenance decree, as Section 14(2)(c) of the Family Courts Act, 1964, expressly bars appeals against maintenance decrees not exceeding Rs.5,000/-, rendering the appellate court's findings on this issue void ab initio.

18. In light of the above discussion, it is evident that the Appellate Court's judgment and decree are flawed. However, rather than remanding the matter yet again, this Court deems it appropriate to decide the petition on merits, ensuring speedy disposal in accordance with the legislative intent of the Family Courts Act, 1964, which aims to avoid repetitive remands and procedural delays.

19. From perusal of judgment and decree passed by the learned trial court it can safely be observed that the Family Court's judgment and decree is well-founded, considering the evidence and financial status of the parties involved. The respondent No.3, as a father, is indeed legally and morally obligated to maintain petitioner No.2/minor. The maintenance allowance granted by the family Court is reasonable, and the decree regarding dowry articles is justified, given the admission of respondent No.3 having the dowry articles in his possession. The alternate amount of the dowry articles, along with delivery expenditure, was also correctly granted by the Family Court.

20. Resultantly, this Writ Petition is **allowed**. The impugned judgment and decree of the Appellate Court are **set aside**, and the judgment and decree of the learned Family Court are hereby **restored and upheld**.

**(Syed Ahsan Raza Kazmi)  
Judge**

Approved for reporting.

**Judge**

*Amjad*

