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JUDGMENT SHEET

LAHORE HIGH COURT

BAHAWALPUR BENCH BAHAWALPUR

JUDICIAL DEPARTMENT

W.P. No.7940 of 2019

Tanveer Ahmed Vs. District Judge Rahim Yar Khan, etc.

JUDGMENT

Date of Hearing:	06.11.2025
Petitioner by:	Ms. Samina Qureshi, Advocate.
Respondent No.3 by:	Proceeded against <i>ex-parte</i> on 01.10.2025.

Anwaar Hussain, J. Through this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner impugns judgment dated 17.09.2019 rendered by the District Judge, Rahim Yar Khan, whereby the appeal filed by respondent No.3 (“**the respondent**”) was accepted and the judgment and decree of the Trial Court was modified.

2. The controversy centers on four (04) *marla* of land which, the petitioner asserts, was transferred to the respondent by way of discharge of her dower (*Haq-ul-Mehr*). The petitioner’s case before the Trial Court was that the parties were married on 18.02.2014 and within few days thereafter, the petitioner purchased the said property from his father, Jam Kalu, having himself owned no immovable property; and then caused the same to be mutated directly in favour of the respondent as an oral sale. Mutation No.2232 dated 18.03.2014 was produced in evidence in support of this claim. It was further averred that the transaction occurred in the presence of the respondent’s brother, Farooq Ahmad, and that the transfer was intended solely to satisfy the dower obligation.

3. Upon framing issues and evaluating the evidence, the Trial Court concluded that the oral transfer, from father of the petitioner to the respondent, together with the subsequent mutation amounted to a valid discharge of the dower debt. On appeal, however, the Appellate Court below reversed that conclusion and held that, since the property originally belonged to the petitioner's father, the transaction was in truth a sale between a father-in-law and daughter-in-law—the respondent and could not be treated as discharge of *Haq-ul-Mehr*. That reasoning forms the nucleus of the present challenge.

4. Learned counsel for the petitioner argues that the impugned judgment is vitiated by misreading and non-reading of material evidence. Adds that the Appellate Court below disregarded the admitted fact that the transfer occurred immediately after the marriage and without monetary consideration passing from the respondent — circumstances which, taken together, point unmistakably to an intention to satisfy the dower obligation. Conversely, the respondent was already proceeded against *ex parte* on 01.10.2025.

5. Arguments heard. Record perused.

6. This Court is conscious of the settled principle that where an Appellate Court below has reappraised evidence, interference by this Court is ordinarily unwarranted — a principle lucidly expounded in Mst. Farah Naz v. Judge Family Court, Sahiwal and others (PLD 2006 SC 457). That principle, however, is not an inexorable fetter: where the Appellate Court below has manifestly ignored or misread material evidence, or proceeded on an erroneous factual premise that vitiates its conclusion, the constitutional and supervisory jurisdiction of this Court may and ought to be exercised, in the interest of justice. The question before this Court, therefore, is whether the Appellate Court's approach in the present case falls within that exception.

7. The marriage between the parties took place on 18.02.2014, and within less than a month, the petitioner caused the suit property belonging to his father to be transferred in favour of the respondent. The record shows that the petitioner purchased the land from his father and directly had it mutated, in the name of the respondent, without any monetary consideration moving from the respondent. Moreover, during cross-examination, the respondent made a categorical statement to the effect that her husband had purchased the said property and got it mutated in her name. It reads as under:

”یہ درست ہے کہ مدعالیہ نے مجھے انتقال نمبر 2232 مورخ 18.03.2014 کے ذریعے پلاٹ 4 مرلے ق
اں میں نے جو موٹی شہادت دی ہے۔“

This admission strikes at the very root of claim of the respondent that the transfer was independent of her dower entitlement. The Appellate Court below brushed aside this crucial statement by terming it a “slip of the tongue” on the ground that the respondent otherwise remained consistent in her pleadings and denied receipt of her dower. Such an approach is legally untenable inasmuch as cross-examination is a vital process through which truth is elicited and contradictions are tested. An admission obtained therein cannot be neutralized merely by describing it as an inadvertent or mistaken utterance, unless the record unmistakably demonstrates confusion or coercion. To label a deliberate, contextually coherent admission as a “slip of tongue” is to erode the entire purpose of cross-examination and to render the evidentiary process meaningless. The Appellate Court below, by doing so, failed to apply the correct evidentiary standard.

8. Matter can be examined from another angle. The respondent never produced her brother Farooq Ahmad as a witness, despite the petitioner's specific plea that said Farooq Ahmad was present at the time of passing of the mutation. Had the property truly been purchased by or on behalf of the

respondent *contra* evidence should have been led by the respondent and her brother would have been the most natural witness to confirm the payment of consideration. No such evidence was brought on record, moreso when the respondent herself admitted that she possessed no financial means or resources to purchase property and was dependent upon the petitioner-her husband. This omission gives rise to an adverse inference under Article 129(g) of the *Qanun-e-Shahadat* Order, 1984, that the withheld evidence, if produced, would have gone against her version.

9. Furthermore, the timing and sequence of events unmistakably support the petitioner's stance. The marriage was solemnized on 18.02.2014; within a few weeks, on 18.03.2014, the sale mutation was attested in the respondent's favour. The proximity of these events, coupled with the absence of consideration, clearly suggests that the transfer was intended to fulfil the dower obligation. The Appellate Court below overlooked these objective circumstances and instead rested its finding upon conjecture, presuming a sale transaction where none was proved. There exists no legal impediment to a father-in-law transferring property directly to his daughter-in-law through a valid sale mutation when such transfer is made at the instance of the husband in discharge of his acknowledged obligation to pay dower. The law does not insist that the husband must first acquire the property in his own name and thereafter convey it to his wife. Where the intention is clear and the transaction effectively satisfies the husband's liability towards dower, a direct transfer by the father to the daughter-in-law stands as a lawful and *bona fide* mode of fulfilling that obligation.

10. At this juncture, it is important to observe that in family matters, the Courts are inclined to adopt a sympathetic approach toward women where claims of dower or maintenance are denied or delayed; yet, such benevolence cannot extend to the disregard of clear and unequivocal evidence. Where a woman's own testimony, supported by

contemporaneous documentary proof, contradicts her claim, the Courts are bound to decide in accordance with evidence, not emotion.

11. In the circumstances, this Court finds that the Appellate Court below materially misread the evidence and failed to apply settled legal principles. The sale mutation was executed soon after marriage, without any proof of payment or financial capacity on the respondent's part. Her admission during cross-examination, coupled with the non-production of the most relevant witness, leads to the only reasonable inference that the transfer was made in discharge of the dower obligation and not as a sale. Consequently, the impugned judgment dated 17.09.2019 passed by the learned District Judge, Rahim Yar Khan is not sustainable in law and is hereby set aside, and the judgment and decree of the Trial Court dated 22.03.2019 is restored.

12. Allowed in the above terms. No order as to costs.

(ANWAAR HUSSAIN)
JUDGE

Approved for reporting.

Judge

Maqsood