

**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

W.P. No.3413 of 2021  
Faisal Shahzad  
**Versus**  
Mst. Zainab and others

S. No. of order / proceedings	Date of order / Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	<b>27.09.2021</b>	<b>Malik Muhammad Faisal and Malik Atif Raza Kalwar, Advocates for the petitioner.</b>

Through the instant writ petition, the petitioner, Faisal Shahzad, impugns the judgment and decree dated 17.12.2020 passed by the Court of the learned Additional District Judge, Islamabad, whereby his appeal against the ex-parte judgment and decree dated 20.02.2020 passed by the learned Judge, Family Court, Islamabad, was dismissed. Vide the said ex-parte judgment and decree dated 20.02.2020 the learned Family Court partially decreed respondent No.1's suit for recovery of maintenance, dower, gold ornaments and a two-room house.

2. The petitioner and respondent No.1 got married on 21.12.2015. The marriage is still subsisting. Respondent No.1 was earlier married and had two children before she got married to the petitioner.

3. In her suit, respondent No.1 alleged that the petitioner was a drug addict, and due to his abusive behavior she left her matrimonial aboard five to six months after marriage. Respondent No.1 sought the recovery of her dower in accordance with the Nikkah Nama which was produced in evidence as Ex.P/2.

4. The petitioner was proceeded against ex-parte but subsequently vide order dated 28.09.2019 the ex-parte proceedings was set-aside subject to payment of cost of Rs.300/-.

Since the petitioner did not pay the said amount, the said order dated 28.09.2019 was recalled on 11.10.2019.

5. The learned Trial Court decreed respondent No.1's suit to the extent of dower i.e. Rs.1,000,000/- and ten tolas of gold ornaments along with a house measuring three marlas with two constructed rooms. It was clarified in the impugned judgment that a house measuring three marlas along with two constructed rooms within the territorial jurisdiction of the Family Court was to be given to respondent No.1 failing which the market value of such house prevailing at the time of execution was to be given. Additionally, the learned Trial Court held respondent No.1 entitled to receive maintenance allowance at the rate of Rs.7,000/- per month from the date of the institution of the suit (i.e. April 2019) with a 10% annual increase. The learned Trial Court disallowed respondent No.1's claim for maintenance for her children from her first marriage.

6. Learned counsel for the petitioner could not controvert the fact that the dower mentioned in the Nikkah Nama is inconformity with the entries in the Nikkah Nama. It is not the petitioner's case that any of the dower had been paid to respondent No.1 at any stage. Even in the writ petition it has not been pleaded that any of the dower has been paid to respondent No.1.

7. The petitioner wants to absolve from his liability to pay the dower in accordance to the provisions of Nikkah Nama by alleging that respondent No.1 had become a Nasheeza. The petitioner has also alleged that he had been kept in dark about the fact that respondent No.1 had been married twice before she married the petitioner.

8. The grounds agitated by the petitioner are not sufficient to absolve the petitioner from his obligation to pay dower to respondent No.1 in accordance with the provisions of the Nikkah Nama. Since the marriage between the petitioner and respondent No.1 is still subsisting, the petitioner cannot escape from his obligation to provide maintenance to respondent No.1. The rate at which the maintenance is to be paid to respondent No.1 has been fixed is not unreasonable. Since, I do not find any jurisdictional infirmity in the concurrent judgments passed by the learned courts below, the instant petition is dismissed *in limine*.

**(MIANGUL HASSAN AURANGZEB)**  
**JUDGE**