

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD,
(JUDICIAL DEPARTMENT).

Writ Petition No. 531 of 2022

Syed Ather Ali Shah

Versus

Additional District Judge, West-Islamabad and 03 others.

S.No. of order/ proceeding	Date of order/ proceeding	Order with signature of Judge and that of parties or counsel where necessary.
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16.02.2022	Mr. Muhammad Rizwan Ahmad, Advocate for the petitioner.
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Through the instant writ petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has assailed judgments and decrees dated 13.12.2021 and 27.09.2021, passed by learned Additional District Judge (MCAC), West-Islamabad and learned Senior Civil Judge-III (Judge Family Court), West-Islamabad, respectively, to the extent of modification of monthly maintenance awarded to respondent No.4 from Rs. 25,000/- to Rs. 10,000/-

02. Succinctly stated, facts mentioned in the writ petition are that the petitioner contracted marriage with respondent No. 3, according to the Muslim Rites and Ceremonies in the year

2013. From the wedlock, one child respondents No.4 was born. Respondents No.3 & 4 filed two suits i.e. suit for recovery of past and future maintenance of minor and suit for recovery of dowry articles amounting to Rs. 46,39,500/- which were decreed in favor of respondents. The suits were contested by the petitioner.

03. After framing of issues and recording the evidence, learned trial Court has passed impugned judgment and decree dated 27.09.2021, whereby, suit of respondents No.3 & 4 to the extent of dowry articles, recovery of monthly maintenance of respondent No.4 at the rate of Rs. 25,000/- per month from the date of institution of the suit till his legal entitlement with 10% annual increase, was decreed.

04. The petitioner filed an appeal against the judgment and decree which has also been dismissed by the Court of learned Additional District Judge (MCAC), West-Islamabad vide judgment and decree dated 13.12.2021. Against the concurrent findings of both the

learned lower Courts, the petitioner has filed instant writ petition.

05. Learned counsel for the petitioner, *inter alia*, contends that both the impugned judgments and decrees passed by learned lower Courts are not tenable in the eyes of law as the learned Courts below badly failed to consider the important facts of law, hence both the impugned judgments and decrees are liable to be set aside and monthly maintenance awarded to respondent No.4 at the rate of Rs.25,000/- is liable to be modified at the rate of Rs.10,000/- per month.

06. Arguments heard, record perused.

07. According to law, the petitioner being father of the minor is bound to pay the maintenance. Monthly maintenance of respondent No.4 was fixed at the rate of Rs.25,000/- per month. Respondent No.3 was also held entitled for receiving the dowry articles according to evidence produced by the parties.

08. Learned counsel for the petitioner has failed to point out any illegality in the impugned judgments and decrees. It is well settled that certiorari is only available to quash a decision for an error of law. It will also be issued for correcting errors of jurisdiction when an inferior Court or a tribunal acts without jurisdiction or in excess of its jurisdiction, or fails to exercise its jurisdiction or where the Court or a tribunal acts illegally in exercise of its undoubted jurisdiction and it decides a matter in violation of the principle of natural justice. The High Court while issuing a writ of certiorari acts in exercise of supervisory and not appellate jurisdiction. The High Court in exercise of its writ jurisdiction will not review the findings of facts reached by the inferior Court or a tribunal. In this regard, reliance is placed upon the cases titled as **Amjad Khan Vs. Muhammad Irshad (Deceased) through LRs, (2020 SCMR 2155), President All Pakistan Women Association, Peshawar Cantt Vs.**

Muhammad Akbar Awan and others (2020 SCMR 260), Chief Executive MEPCO and others Vs. Muhammad Fazil and others (2019 SCMR 919), Chairman, NAB Vs. Muhammad Usman and others (PLD 2018 SC 28) and Shajar Islam Vs. Muhammad Siddique and 2 others (PLD 2007 SC 45).

09. Further, there are concurrent findings of both the learned Courts below against the petitioner. In case of concurrent findings of the courts below, scope of constitutional petition becomes very limited. The petitioner has failed to point out any misreading or non-reading of the evidence. It has been laid down in a case titled as **"Syed Arif Ali Sabri Vs. Abdul Samad through L.Rs. and 2 others" (2008 YLR 2309)** that:

"When there are concurrent findings of Courts below, the scope of the constitutional petition for interference is very limited and it can only be interfered when the orders of the Courts below are fanciful or based on misreading or non-reading of the evidence".

The same view has also been taken in a case titled as **"Sadruddin Vs. Aslam Madad Ali and others" (PLD 2008 Karachi 2005).**

10. For what has been discussed above, impugned judgments and decrees dated 13.12.2021 and 27.09.2021, passed by learned Additional District Judge (MCAC), West-Islamabad and learned Senior Civil Judge-III (Judge Family Court), West-Islamabad, respectively, are in accordance with law and facts of the matter, hence do not require any interference by this Court.

11. In view of above prospective, the instant writ petition has no merits and the same is **dismissed in limine.**

(TARIQ MEHMOOD JAHANGIRI)
JUDGE

Ahmed Sheikh