

ORDER SHEET
ISLAMABAD HIGH COURT
ISLAMABAD

W.P No.1748/2019

Muhammad Ali Akbar Shabbir
VERSUS
Additional District Judge-X (West), Islamabad, etc.

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
	01.10.2019.	Mr.Mazhar Iqbal Ch, Advocate for petitioner. Mrs.Safia Sarfraz, Advocate for respondent No.2.

Through this writ petition, the petitioner has assailed the judgment and decree dated 03.10.2018 passed by the Family Judge (West), Islamabad and judgment and decree dated 30.3.2019 passed by the Additional District Judge-X (West), Islamabad in appeal whereby both the Courts below have upheld the decree for maintenance allowance as well as dowry articles against the petitioner.

2. Learned counsel for the petitioner contends that petitioner and respondent No.2 were married to each other in district Khushab on 28.12.2014 against dower amount of Rs.3000/- and respondent No.2 after rukhsati settled with the petitioner, however, respondent No.2 left the abode of the petitioner and filed suit for recovery of maintenance allowance and dowry articles at Islamabad whereby learned trial Court decreed the suit to the extent of maintenance allowance and dowry articles i.e gold ornaments and dowry articles as per list Ex.P/9 or in alternate to pay amount of Rs.349,270/- It is further contended that petitioner does not oppose the maintenance claim of respondent No.2, however, contends that the dowry articles have not been proved in accordance with law and petitioner has not been given right to rebut the claim of respondent No.2 in appropriate manner.

3. Conversely, learned counsel for respondent No.2, contends that the decree for dowry articles was passed against the petitioner on the bases of ex-parte judgment dated 03.10.2018 as petitioner was proceeded against ex-parte on 03.9.2018 as he failed to contest the matter despite filing of written statement.

4. Arguments heard. Record perused.

5. Perusal of record reveals that respondent No.2 filed suit for recovery of dowry articles alongwith maintenance allowance whereby petitioner had contested the same by filing written statement only on one ground that respondent No.2, had received dowry articles in presence of witnesses referred in preliminary objection No.2 of the written statement. Thereafter petitioner did not appear before the Court and was proceeded against ex-parte and after recording evidence of respondent No.2, ex-parte judgment and decree was passed. The claim of respondent No.2 is based upon the dowry articles list Ex-P/9. Even respondent No.2 placed the receipts of articles referred in the list by way of Ex.P3 to Ex.P8 which were not rebutted in any manner. The claim of respondent No.2 was further substantiated through evidence of Fateh Khan who appeared as PW-2 which has not been rebutted in any manner. Even there is no denial that respondent No.2 was not deserted from the abode of petitioner and as such petitioner is only aggrieved with the decree to the extent of recovery of dowry articles. The

petitioner was proceeded ex-parte and no evidence is available on record to rebut the claim of respondent No.2 which has been proved by way of independent evidence, even the overwhelming documentary evidence substantiated her claim.

6. I have gone through the concurrent findings of the Courts below whereby issue No.1 has rightly been appreciated by the learned trial Court and was also upheld by the appellate Court and no illegality has been observed in the proceedings of the Courts below, therefore, instant writ petition is misconceived and same is hereby dismissed.

(MOHSIN AKHTAR KAYANI)
JUDGE

M.S.ZAKI.