

**JUDGMENT SHEET**  
**ISLAMABAD HIGH COURT, ISLAMABAD,**  
**JUDICIAL DEPARTMENT**

**W.P. No. 2566/2019**

Sajjad Hussain

vs.

Additional District Judge (West), Islamabad & 02 others

Petitioner by: Rao Sabir Hussain, Advocate.

Respondent No.3: Ex-parte

Date of Decision: 29.12.2021.

**MOHSIN AKHTAR KAYANI, J:** Through this writ petition, the petitioner has called in question judgment and decree of the learned Additional District Judge-IX (West), Islamabad, dated 18.03.2019, whereby appeal filed by the petitioner against the judgment and decree of the learned Judge Family Court (West), Islamabad, dated 15.11.2018, has been dismissed.

2. Succinctly, Sajjad Hussain (petitioner) and Rubab Khan (respondent No.3) tied the knot on 06.06.2005, but the marital relationship between the spouses became strained, as a result whereof, respondent No.3 left the abode of the petitioner and filed a suit for dissolution of marriage before the District Courts, Sargodha, which was dismissed vide judgment and decree dated 22.01.2007. Later on, respondent No.3 again filed a suit in Islamabad for dissolution of marriage on the basis of Khula as well as recovery of past maintenance allowance, dower amount of Rs.48,000/- and other dowry articles, as such, the petitioner contested the suit, but same was partially decreed vide impugned judgment and decree dated

15.11.2018. Feeling aggrieved thereof the petitioner preferred an appeal, which was dismissed vide impugned judgment and decree dated 18.03.2019. Hence, instant writ petition.

3. Learned counsel for petitioner contends that respondent No.3 concealed material facts from the Courts and deliberately not disclosed about filing of her earlier suit in Sargodha, which was dismissed, whereafter she with malafide filed another suit in Islamabad despite being resident of Sargodha, as such, both the Courts below have not properly appreciated the facts and circumstances of the case, rather resorted to passing of the impugned judgments and decrees in a haste, which resulted into grave injustice to the petitioner. Learned counsel for the petitioner further contends that both the courts below have not appreciated the legal and factual aspect that respondent No.3 decree holder has filed the suit before the Family court without claim of jewelry, gold ornaments rather only dowry articles were claimed on the basis of list attached with plaint but the courts below have awarded the decree of gold ornaments contrary to the record.

4. Arguments heard, record perused.

5. Perusal of record reveals that since admission of the instant writ petition on 04.12.2019, notices were issued to respondent No.3 on 04.12.2019, 31.01.2020, 16.08.2021, 06.10.2021 and 24.11.2021, but respondent No.3 never put appearance before this Court, as a result whereof, respondent No.3 was proceeded ex-parte vide order dated 17.12.2021.

6. It has further been observed from the record that respondent No.3 filed suit for dissolution of marriage on the basis of khulla, suit for recovery of past maintenance, recovery of dower amount and dowry articles against the petitioner which was partially decreed in her favour and maintained by the appellate court, as such instant writ petition is against the concurrent findings. The petitioner has only argued and confines his case to the extent of jewelry which was awarded by the courts below to respondent No.3 on a single ground that jewelry was not part of the claim.

7. Learned counsel for the petitioner has been confronted qua the evidence recorded by learned Judge Family Court, whereby Ex.P-3 list of dowry articles was exhibited on record which contains details of jewelry at S.No.6 in the following manner:-

(6) جیولری:

دو عدد انگونھیاں تولے کی دولہے کی نکاح والی اور شادی والی 4 تولے کا سیٹ سونے کا (4) 12 چوڑیاں تولے کی تولے کی ٹوٹ (12 تولے)

8. The petitioner contends that this part of jewelry should have been claimed separately in the prayer as it is not part of dowry articles but surprisingly the petitioner has not suggested anything to the witness of respondent No.3 qua the said jewelry, nor it is the case of petitioner that the list was tampered or subsequently tampered in the court, in such scenario when dowry articles list Ex.P-3 is available on record and exhibited any objection on the veracity of said list at this stage in constitutional jurisdiction is not permissible. Even otherwise, courts below have rightly considered the jewelry in terms of list Ex.P-3 and awarded the

claim to respondent No.3 after appreciating the evidence on record. As such petitioner has failed to point out any illegality in the concurrent findings, which are within four corners of law, therefore, instant writ petition is misconceived and the same is hereby *dismissed*.

(MOHSIN AKHTAR KAYANI)  
JUDGE

Zahid.