

JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No.92/2020

Shafqat Nisar

Vs.

Learned Additional District Judge (East), Islamabad & others.

PETITIONER BY: Ms. Anila Akhtar, Advocate.

RESPONDENTS BY: Ms. Saira Khalid Rajput, Advocate.

DATE OF DECISION: 04.03.2022.

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BABAR SATTAR, J.- The petitioner has impugned judgment and decree dated 30.09.2019 passed by the learned Judge Family Court (East), Islamabad, and the judgment passed by the learned Additional District Judge (East), Islamabad, dated 27.11.2019, pursuant to which the judgment and decree of the learned Family Court has been upheld.

2. The learned counsel for the petitioner contended that the list of dowry articles was prepared subsequently and ought not have been relied upon by the learned Family Court and the learned appellate Court. She further contended that in deciding issue No.4 the learned Family Court as well as the learned appellate Court have miscalculated the amount of gold that had been gifted to respondent No.3, which was a consequence of misreading of evidence.

3. The learned counsel for respondents No.3 & 4 contended that the challenge in the petition to the impugned judgment is only to the extent of gold ornaments and not to the extent of dowry articles as it is evident from the prayer in the

petition. She submitted that respondent No.3 in her pleadings very clearly stated the gold items that she had claimed. The same contention was stated in her affidavit presented for purposes of examination-in-chief and such testimony remained unshaken during cross-examination, in which she clearly asserted that a necklace which had been given to her as a gift by the petitioner had been snatched from her subsequently. She contended that the learned Family Court discussed the evidence and then rendered the finding in relation to issue No.4, which was based on the assertion made by respondent No.1 that remained unshaken and un-rebutted. The learned Family Court thus granted relief in relation to issue No.4. She further submitted that the learned appellate Court also correctly decided issue No.4 by noting that respondent No.3 had very clearly provided details of the gold ornaments that she was claiming and in the response filed by the petitioner against para-2 of the plaint, the denial was evasive. And that the learned appellate Court correctly appreciated the law that where a party evasively denies a factual assertion such denial is deemed to be an admission. In view of the same, the learned counsel for respondents No.3 & 4 submitted that there was no infirmity in the impugned judgment and decree rendered by the learned Family Court as well as by the learned appellate Court.

4. The learned counsel for the petitioner has failed to convince this Court that there was any evidence that was either misread or not read by the learned Family Court and the learned appellate Court. She has also failed to point out any illegality or infirmity in the reasoning of the learned Family Court as well as

the learned appellate Court. The learned Family Court in a detailed reasoned order seems to have appreciated the evidence and accepted the contention of respondent No.3 that a necklace was indeed given to her as gift by the petitioner, which was subsequently snatched away from her. The learned appellate Court also seems to have appreciated the evidence as well as applied settled law in relation to evasive denial correctly. The contention of the petitioner in relation to decision in issue No.1 cannot be adjudicated by this Court as in the memo of the instant petition the challenge by the petitioner has been limited to the extent of the decision on issue No.4.

5. In view of the above, this petition is without merit and is **dismissed** with a cost in the amount of Rs.25,000/- to be paid by the petitioner to respondents No.3 & 4 within a period of thirty days. The learned counsel for the petitioner will file a certificate with the Deputy Registrar (Judicial), of this Court, certifying that the order as to cost has been complied with within such period

(BABAR SATTAR)
JUDGE