

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No.3879 /2021

Muhammad Junaid Khan

Vs

Mst. Rida Naseem and another

| S. No. of order/ proceedings | Date of order/ Proceedings | Order with signature of Judge and that of parties or counsel where necessary. |
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06.12.2021

Raja Arshad Abbasi, Advocate for the
petitioner.

The petitioner, in the instant petition, has assailed order dated 18.10.2014 whereby suit for dissolution of marriage through *Khula* filed by respondent No.1 was allowed and the marriage was accordingly dissolved.

2. At the very outset, learned counsel for the petitioner was confronted as to the maintainability of the instant petition on the basis of laches as the impugned order is dated 18.10.2014. In response to the same, learned counsel for the petitioner contended that petitioner's father was indisposed and the petitioner had been engaged in other litigation with respondent No.1 vis-à-vis the custody of the children etc. hence the instant petition could not be filed. It was further contended that the impugned order is untenable inasmuch as is in

violation of basic provisions of the law.

3. Arguments advanced by the learned counsel for the petitioner have been heard and the documents placed on record examined with his able assistance.

4. As noted above, respondent No.1 sought dissolution of marriage through *Khula* which suit was allowed vide judgment and decree dated 18.10.2014. In this behalf the marriage was dissolved by way of *Khula* subject to restoration of dower. Learned counsel for the petitioner has not been able to provide any plausible reason for condoning the delay in approaching this Court. The petition, under Article 199 of Constitution of the Islamic Republic of Pakistan, 1973, is by way of equitable remedy and it is established principle that equity favours the vigilant rather than indolent. A right has accrued in favour of respondent No.1 by virtue of the impugned order; the vires of which can only be examined if the petitioner crosses the equitable hurdle of laches. As noted above, the reasons for delay have no justification or basis. Reliance is placed on the case titled *Civil Aviation Authority through Director General and 3 others v. Mir Zulfiqar Ali and another* (2016 SCMR 183).

5. In view of above, the instant petition is not maintainable due to laches and is dismissed *in limine*. Since the petition is being decided on the basis of maintainability, hence no finding is required to be rendered on merit.

(AAMER FAROOQ)
JUDGE

M.Naveed