

## **JUDGMENT SHEET**

### **PESHAWAR HIGH COURT, ABBOTTABAD BENCH**

#### **JUDICIAL DEPARTMENT**

#### **Writ Petition No.39-A of 2017**

#### **JUDGMENT**

*Date of hearing.....26.07.2017.....*

*Petitioner(s) ...(Muhammad Azeem) by Mr. Khurshid Alam  
Khan, Advocate.....*

*Respondent(s)...(Mst. Nasreen Bibi etc)by Malik Wali Sultan,  
Advocate .....*

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#### **SYED MUHAMMAD ATTIQUE SHAH, J.-**

Through instant petition, the petitioner approached this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, with the following prayer:-

***“It is therefore, humbly prayed that on acceptance of instant writ petition, the impugned order dated 21.12.2016 may graciously be set aside and application filed by petitioner for production of additional witnesses may graciously be accepted. Any other relief deemed fit and proper in the circumstances of the case.”***

2. Brief facts of the case are that respondent No.1 instituted a suit in the Court of Judge Family Court, respondent No.2 for dissolution

of marriage, recovery of dower, maintenance, dowry articles and recovery of gold ornaments on 28.08.2014. The learned trial Court summoned the present petitioner, who appeared before the Court and filed his written statement alongwith list of witnesses on 20.11.2014. However, the present petitioner on 24.11.2016 moved an application for production of additional evidence of two witnesses in support of his claim. The learned Judge Family Court dismissed the said application vide order dated 21.12.2016. Hence, the present writ petition.

3. Arguments of the learned counsel for the parties heard and the available record perused with their able assistance.

4. Perusal of record reveals that the petitioner has submitted his list of witnesses alongwith his written statement in which he has cited twelve witnesses. However, he produced only three witnesses. Later, he submitted an application on 24.11.2016 for recording the statement of one Taj Muhammad and Sher Afzal, drivers and requested the Court to allow him to produce and record their statements in support of his case. The said application was filed by the petitioner after lapse of more than

two years on 24.11.2016. Moreover, the petitioner has not shown any plausible reason or ground for not mentioning the names of said witnesses in list of witnesses submitted by him on 20.11.2014. In the present case, the petitioner/defendant's evidence has been closed on 03.12.2016, and now the case is pending for final arguments of the parties. Therefore, at this belated stage the petitioner's application for production of additional evidence would not serve any useful purpose rather it seems that the present application is an attempt to further delay the decision of the case, which is not desirable under the law.

5. Keeping in view the above stated facts, reasons and discussions thereupon, this Court reached to inescapable conclusion that the present writ petition is bereft of merits, therefore, the same is dismissed.

**Dt.26.07.2017.**

**J U D G E**

**M.Saleem/\***