

[Balochistan]

Before Naeem Akhtar Afghan and Rozi Khan Barrech, JJ

JAN MUHAMMAD---Petitioner

Versus

HUMAIRA ALLAH DITA and another---Respondents

Constitution Petition No. 1032 of 2019, decided on 2nd July, 2020.

Family Courts Act (XXXV of 1964)---

---S. 17 & Preamble---Object of Family Courts Act, 1964---Provisions of Qanun-e-Shahadat, 1984 and Code of Civil Procedure, 1908 not to apply---Scope---Petitioner assailed the dismissal of his application under Art. 59 of the Qanun-e-Shahadat, 1984, read with S.151, C.P.C. for examination of a document through expert---Validity---Family Courts Act, 1964, was promulgated for the expeditious settlement and disposal of disputes relating to the marriages and other family affairs and special procedure was provided to achieve such object---Purpose of enacting Family Courts Act, 1964, was to frustrate the technicalities for the purpose of justice between the parties in the shortest possible time---Provisions of Civil Procedure Code, 1908 as well as Qanun-e-Shahadat, 1984, were not applicable in stricto sensu to the proceedings before the Family Court by virtue of S.17 of the Family Courts Act, 1964---Trial Court after going through the relevant law had rightly dismissed the application--Constitutional petition was dismissed.

Farzana Rasool v. Dr. Muhammad Bashir 2011 SCMR 1361 rel.

Khurshid Ahmed Khosa for Petitioner.

Syed Saleem Akhtar for Respondent No.1.

Date of hearing: 25th June, 2020.

JUDGMENT

ROZI KHAN BARRECH, J.---The petitioner has assailed order dated 17.09.2019 (hereinafter "the impugned Order") passed by learned Family Judge-II, Quetta, (hereinafter "the trial Court") whereby application under Article 59 of Qanun-e-Shahadat Order read with section 151, C.P.C. for examination of the Qabeen Nama dated 31.12.2011 through expert filed by the petitioner was dismissed.

2. Facts of the case are that the respondent filed a suit for recovery of dower amount,

dowry articles and maintenance before the learned trial Court. The suit was contested by the petitioner by means of filing written statement on legal and factual grounds. When the case was fixed for evidence of the parties, the petitioner filed an application under section 59 of Qanun-e-Shahadat Order read with section 151, C.P.C. for examination of Qabeen Nama dated 31.12.2011 through experts with the allegations that while the backside of Qabeen Nama has been got tempered by the respondent in her favour. The application was contested by the respondent by means of filing rejoinder on legal as well as on factual grounds.

3. After hearing of learned counsel for the parties, the learned Family Judge-II, Quetta, dismissed the application filed by the petitioner on 17.09.2019. Hence this petition.

4. We have heard the learned counsel for the parties and have minutely gone through the available record. It is a settled principle of law that purpose of enacting the special law regarding family disputes is to advance justice and to avoid technicalities, which are hindrance in providing ultimate justice to the parties. The West Pakistan Family Courts Act, 1964 was promulgated for the expeditious settlement and disposal of disputes relating to the marriages and other family affairs and special procedure was provided to achieve this object. The purpose of enacting Family Courts Act, 1964 is to frustrate the technicalities for the purpose of justice between the parties in the shortest possible time. The provisions of Civil Procedure Code, 1908 as well as Qanun-e-Shahadat Order, 1984 are not applicable in stricto sensu to the proceedings before the Family Court by virtue of Family Courts Act, 1964. In section 17 of the West Pakistan Family Courts, Act, 1964 that applicability of C.P.C. and Qanun-e-Shahadat to proceedings before Family Court has been excluded. The august Supreme Court in the case of Farzana Rasool v. Dr. Muhammad Bashir 2011 SCMR 1361 has held that, "object of exclusion of C.P.C. and Qanun-e-Shahadat Order, 1984 was to avoid technicalities by providing a short, simple and speedy methodology for settlement and disposal of disputes relating to family matters".

The trial Court after going to the relevant law rightly dismissed the application filed by the petitioner, as such, the petition filed by the petitioner is hereby dismissed in limine.

SA/231/Bal.

Petition dismissed.