

FORM No. HCJD/C-121
ORDER SHEET
IN THE LAHORE HIGH COURT,
LAHORE
JUDICIAL DEPARTMENT
W.P.No. 18074 of 2019

Muhammad Sarwar.		Vs.	Mst. Usma Bibi, etc.
<i>Sr. No. of order/ proceedings</i>	<i>Date of order/ Proceeding</i>	<i>Order with signature of Judge, and that of Parties' counsel, where necessary</i>	

27.03.2019.	Syed Mubashar Uz Zaman Bukhari, Advocate for petitioner.
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The only grievance raised through this petition by challenging the concurrent judgments and decrees passed by both the courts below dated 28.01.2019 and 24.09.2018 in decreeing the suit filed by respondent No.1 for recovery of Rs. 100,000/- as mentioned in column No. 17 of the Nikahnama is that learned Judge Family Court, Pakpattan, as per judgments reported as **PLD 2011 SC 260** (Syed MUKHTAR HUSSAIN SHAH Versus Mst. SABA IMTIAZ and others), **2012 CLC 837** (Mst. ZEENAT BIBI Versus MUHAMMAD HAYAT and 2 others), **PLD 2007 Lahore 515** (MUHAMMAD AKRAM Versus Mst. HAJRA BIBI and 2 others) and **PLJ 2008 Lahore 147** (MUHAMMAD AKRAM Versus Mst. HAJRA BIBI and 2 others) had no jurisdiction to entertain and decide the matter relating to entry reflected in column No. 17 of the Nikahnama, which fell within the exclusive jurisdiction of the civil court and consequently prays that both the judgments to that extent be set-aside.

2. Heard. Record perused.
3. The column No.17 of the Nikahnama mentions that in case of constrained relations, the petitioner shall pay Rs. 100,000/- to the respondent. The said entry is not denied by the petitioner and it is well settled of law that presumption of truth is

attached to the entries reflected in the Nikahnama. As regards the question of jurisdiction of the Family Court to entertain the afore-referred dispute is concerned, as per entry No. 10 in the Part-I of Schedule prepared under Section 5 of the Family Courts Act, 1964, matters arising out of Nikahnama are to be decided by the Family Court. Section 5 of the Family Courts Act, 1964 is reproduced below:-

“Section 5. Jurisdiction:- (1) Subject to the provisions of the Muslim Family Laws Ordinance, 1961, and the conciliation Courts Ordinance, 1961, the Family Courts shall have exclusive jurisdiction to entertain, hear and adjudicate upon matters specified in Part I of the Schedule”

Consequently, the Family Court to the exclusion of Civil Court has jurisdiction to entertain the dispute. Besides, the said issue has been settled by the august Supreme Court of Pakistan in its judgment reported as **PLD 2016 S.C. 613** (*Mst. Yasmeen Bibi V. Muhammad Ghazanfar Khan and others*) wherein it has been held that undertaking given in the Nikahnama that certain property/land shall be transferred in the name of the wife mentioned in column No. 17 of the Nikahnama would fall within the exclusively jurisdiction of the Family Court, therefore, the objection raised by the petitioner about jurisdiction of the Family Court is without any substance and is accordingly repelled. Consequently, this petition being devoid of any force stands **dismissed**.

(Muzamil Akhtar Shabir)
Judge