

SUPREME COURT OF AZAD JAMMU AND KASHMIR

[Appellate Jurisdiction]

PRESENT:

Mohammad Azam Khan, C.J.

Raja Saeed Akram Khan, J.

Civil Appeal No. 24 of 2016

(PLA filed on 9.11.2015)

1. Muhammad Ishaq s/o Said Muhammad
caste Mughal, r/o Chabrian, Mirpur.
 2. Muhammad Shahraiz s/o Muhammad
Ishaq, caste Mughal, r/o Chabrian, Mirpur.
- APPELLANTS

VERSUS

1. Malka Khatoon d/o Muhammad Khan,
 2. Muhammad Usama,
 3. Ali Murtaza, minors s/o Muhammad Ishaq,
through their mother Malka Khatoon, r/o
Nangi Mirpur.
- RESPONDENTS

(On appeal from the judgment of the Shariat
Court dated 10.9.2015 in Civil Appeal
No. 88 of 2015)

FOR THE APPELLANT:

Mr. Javaid Najam-
us-Saqib, Advocate.

FOR THE RESPONDENT:

Ch. Shoukat Ali,
Advocate.

Date of hearing: 23.11.2016.

JUDGMENT:

Mohammad Azam Khan, C.J— The titled appeal by leave of the Court arises out of the judgment of the Shariat Court dated 10th September, 2015, whereby the appeal filed by the appellants, herein, has been dismissed.

2. The respondents, herein, filed a suit for recovery of maintenance allowances before the Judge Family Court, Mirpur. The Family Court decreed the suit of the plaintiffs and ordered that plaintiffs No. 1 to 3 are entitled to get maintenance allowance to the tune of Rs.3,000/- each per month from Jan, 2008 up-till now, whereas, respondent No.1, Malka Khatoon was declared entitled to get Rs.3000/- per month as maintenance from January, 2008 till dissolution of marriage along with the period of *Iddat* vide judgment and decree dated 15.7.2011. No appeal was filed against the decree. The decree attained finality. The plaintiffs filed an application for execution of the decree on 27.2.2012 before the Judge Family Court, which was objected to by the appellants. The learned trial

Court after hearing the counsel for the parties passed the order that out of the decree holders, Muhammad Shahraiz shall be paid Rs.3000/- per month from January, 2008 to May, 2010 while Muhammad Usama and Ali Murtaz (No.2 to 3) are entitled to get Rs.3000/- each per month from January 2008 up till now and onward, whereas Malka Khatoon (No.4) will get maintenance allowance Rs.3000/- per month from January, 2008 to 20.2.2010 and also for the period of *Iddat* at the same rate. Feeling aggrieved, the appellants filed an appeal before the Shariat Court. A learned Judge in the Shariat Court through the impugned judgment dated 10.9.2015 dismissed the appeal, hence, the instant appeal by leave of the Court.

3. At the outset Mr. Javaid Najam-us-Saqib, Advocate, the learned counsel for the appellants requested for fixing of installment of Rs.15000/- per month for the past amount. He stated that he will not contest the appeal on merits.

4. Ch. Shoukat Ali, Advocate, the learned counsel for the respondents, submitted that the past maintenance is due, therefore, reasonable amount of installment be fixed. The counsel for the

parties agreed that the installment of Rs.30000/- per month of past period is reasonable.

5. As per agreement of the counsel for the parties, the impugned judgment is altered. The appellant shall pay Rs.30,000/- per month for the amount of past period and shall also pay the amount of running period. He is directed to deposit the installments of the month of November and December before 5th of December, 2016 and installment amount shall be deposited in the Family Court before the 5th of every month.

The appeal is disposed of with the above observation. No order as to costs.

CHIEF JUSTICE
Mirpur.
.12.2016

JUDGE