

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**

Mr. Justice Yahya Afridi, CJ  
Mr. Justice Irfan Saadat Khan

**Civil Petition No.344-P of 2022**

Against the judgment dated 31.01.2022 of  
the Peshawar High Court, Peshawar passed  
in WP 13-P/2021

Mst. Humaira Wazir

...Petitioner

**VERSUS**

Muhammad Faisal and others

...Respondents

For the Petitioner(s):

Mr. Ijaz Ahmed Malik, ASC  
a/w petitioner  
(V.L. Peshawar)

For the Respondent(s):

N.R

Date of Hearing:

07.03.2025

**ORDER**

**Irfan Saadat Khan, J.-** The instant petition for leave to appeal has been filed against the judgment dated 31.01.2022 of the Peshawar High Court, Peshawar passed in Writ Petition No. 13-P/2021 (hereinafter referred to as "**impugned judgment**").

2. Briefly stated, the facts of the case are that, the petitioner filed a two-fold suit for; (a) restitution of her conjugal rights, and (b) recovery of: (i) dower, (ii) dowry articles, (iii) gold ornaments weighing 25 *tolas*, (iv) 1/5<sup>th</sup> share in House No.116 sector A, Askari 14, Adyala Road, Rawalpindi or its prevailing Markert value, (v) Maintenance allowance to the tune of Rs.5000/-, with effect from 17.02.2012 till decision of the suit, (vi) recovery of Rupees Five Lac, given to the respondent No.1 as loan by her.



3. Proceedings were initiated before the Family Judge Court-IV, Peshawar, who *vide*: judgment dated 28.02.2019, granted relief to the petitioner in the following manner:

*"i. Defendant is bound to honor the entries of Nikahnama and to arrange a constructed house of 03 marlas for the plaintiff within the territorial limits of Zaryab Colony, Peshawar. (As the address of the defendant No.1 mentioned in the Nikahnama revealed that at the time of Nikah he was residing at Peshawar).*

*ii. The plaintiff is held entitled for the recovery of cash amount Rs.2 lac.*

*iii) The plaintiff is entitled for the recovery of the following items with the addition of those items which the defendants already admitted in his written statement, i.e.:*

*iv. Showcase at s/no.20, One water set, one tea set at s.no.45, one blanket at s. no.33, plastic dinner set at s.no.40, carpet at s.no.17, one pair table lamp at s.no.19, two bed sets at s.no.31, one quilt at s.no.36, three air tight jars at s.no.37, press and pour thermos at s.no.39, two seven piece bowl sets at s.no. 46, seven piece plat set at s.no.47, articles mentioned 48 to 51, 53, 54 to 60, 64, 69, 71, to 76. Plaintiff is held entitled for the recovery of dowry articles mentioned at serial No. 1, 3, 6, 7, 8 and 9 and furniture mentioned at serial No.12, 13, 14, 15, 16 and 17 or its market value.*

*v. Plaintiff is entitled for recovery of maintenance allowance @ Rs.5,000/- per month w.e.f. 17.02.2012 till the period of her Iddat."*

4. Being aggrieved with the said order, both parties filed appeals before the Additional District Judge-III/Model Civil Appellate Court, Peshawar. The appeal filed by the present petitioner was marked as FCA No.28/2019, whereas the appeals filed by the present respondents were marked as FCA No.27/2019 and FCA No.29/2019, respectively. All three matters proceeded before the Appellate Court who then, *vide*: order dated 25.09.2020, dismissed the appeals filed by the respondents, finding them to be devoid of merits, whereas the appeal filed by the petitioner was partly allowed to the extent that she was found entitled to:



(i) the recovery of 25 *tolas* gold ornaments in the form of dower, (ii) the *shari* share in the ancestral property or its market value, and (iii) maintenance at the rate of Rs.5000/- per month, with effect from 17.02.2012, while the rest of the findings of the Trial Court were upheld by the Appellate Court.

5. Being aggrieved with the Appellate Court's order, the present respondent filed an appeal before the High Court, who *vide*: the impugned judgment, observed that the allegation against the respondent regarding snatching of the gold ornaments from the petitioner was not proved. The petitioner was found entitled to *shari* share in the ancestral property as mentioned in column No.16 of the *Nikahnama*. With regards to maintenance and dowry articles the orders of the two Courts below were upheld by the High Court. It is against this judgment of the High Court that the instant civil petition for leave to appeal has been filed.

6. Mr. Ijaz Ahmed Malik, ASC, along with the petitioner, appeared via video-link from the Peshawar Registry and stated that the order of the High Court suffers from grave illegalities and irregularities. It was conceded by him that a number of claims of the present petitioner were duly allowed and granted by the three *fora* below, however, he contended that the question of 25 *tolas* gold ornaments, as well as her *shari* share in the ancestral property were not properly addressed by the High Court. The learned counsel submitted that the order of the High Court suffers from mis-reading and non-reading of the evidences and on these inactions he prayed that the order may be set aside.

7. We have heard the learned counsel for the petitioner at length and have gone through the impugned judgment as well as the available record with his assistance.

8. It is averred on behalf of the petitioner that 25 *tolas* gold was given to her but was subsequently taken away/snatched by her previous husband, namely,



Muhammad Faisal. The Trial Court while examining this issue observed that in her deposition, the petitioner had clearly stated to have no knowledge at the time of the *Rukhsati* about how much jewelry had been given to her, since it was not weighed by her, however, she admitted that the jewelry comprised of one gold set and six gold bangles, which amply proves that the jewelry had been given to her by her ex-husband, hence there could be no question that the said jewelry was snatched away from her. Although the Appellate Court in its order reversed this finding of the Trial Court to observe that she is entitled for recovery of 25 *tolas* gold ornaments, as prayed by her, however, the Appellate Court's finding was subsequently set aside by the High Court *vide*: paragraph 8 of the impugned judgment. The High Court, while rejecting the claim of the petitioner, reproduced her deposition made before the Trial Court in Urdu, and observed that she had given the jewelry to her ex-husband herself on his demand, hence, there was no question of either snatching or taking away the same forcefully from her.

9. In our view, these findings of the Trial Court and the High Court do not warrant any interference as it is quite evident from the record that the allegation of snatching away of the 25 *tolas* gold from her, had remained unproved. The learned counsel for the petitioner appearing before us has failed to adduce any evidence to substantiate the claim and has also failed to produce any cogent material which could prove that the respondent has either snatched or taken away the jewelry from her using force. Hence, on this issue, we do not find any reason to interfere with the orders of the Trial Court, as well as the High Court, which are hereby upheld.

10. So far as the question of her *shari* share in the House No.116 Sector A, Askari 14, Adyala Road, Rawalpindi is concerned, we once again find ourselves in agreement with the findings of the Trial Court as well as the High Court.



Dealing with this issue, the Trial Court, after examining the witnesses and the depositions in detail has observed, that as per column No. 16 of the *Nikahnama* [Exhibit PW.1/1], there is an entry to the effect that the respondent would give the petitioner a share in the ancestral property as part of the dower, however, no whereabouts of the said house have been mentioned. The said column No.16 of the *Nikahnama* mentions as under:

"مکان میں پدری حصہ لڑکی کے نام کرنا ہے"

As nothing more has been mentioned, hence, the claim of the petitioner specifically with regard to *shari* share particularly in House No.116 Sector A, Askari 14, Adyala Road, Rawalpindi seems to be misplaced, as rightly observed by the Trial Court as well as the High Court.

11. It also remains an admitted fact, that neither at the time of Nikah nor after its culmination, any objection was raised by the petitioner with regards to the entry made in column No.16 of the *Nikahnama* on the basis that it was vague and that there was no mention of any particular house or address in the said entry. She also admitted in her deposition, that she never demanded or asked from the respondent, that in which ancestral property did he have his share, so as to entitle the petitioner to claim her right in that property. Therefore, the High Court was correct in observing that columns No.13 and 16 of the *Nikahnama* entitles the petitioner to have *shari* share in the ancestral property, which the respondent was bound to provide her, without any exception. Hence, on this issue as well, we do not find any justification to interfere with the order passed by the High Court, which is hereby upheld, since the same, in our view, does not suffer from any misreading or non-reading of the evidences or on the basis of facts obtaining on the record.

12. Consequently, the instant civil petition is found to be without any merit, the same, therefore, is dismissed and leave to appeal refused.

ISLAMABAD  
06.03.2025

Naseer / Mustafa Kundi L.C.

"Approved for Reporting"