

Journal

2004 CLC 1545

Court

LAHORE HIGH COURT

Date

2004-04-27

Appeal No.

W. P. NO. 2750 OF 2003

Judge

CH. IJAZ AHMAD

Parties

MIRZA SHAHID BAIG—PETITIONER VERSUS MST. LUBNA RIAZ AND 2 OTHERS—RESPONDENTS

Lawyers

SYED MUHAMMAD KALEEM AHMAD KHURSHID FOR PETITIONER. %|BADAR-UL-AMEER FOR RESPONDENTS.

Statutes

WEST PAKISTAN FAMILY COURTS ACT (XXXV OF 1964) - PREAMBLE AND S. 17 WEST PAKISTAN FAMILY COURTS ACT (XXXV OF 1964) - SS. 5 AND 17 CONSTITUTION OF PAKISTAN (1973) - ARTICLE 199 INTERPRETATION OF STATUTES

Judgment

The brief facts out of which the present petition arises are that the petitioner and respondent No.1 solemnized marriage in accordance with the injunctions of Islam on 26-10-1997. Out of the wedlock one minor son was born on 15-12-1998.

Subsequently, relationship of the petitioner and respondent No.1 became strained and consequently respondent No.1 secured divorce through Family Court vide judgment and decree, dated 20-10-1999. Respondent No.1 filed a suit for recovery of dowry articles or in lieu thereof a decree for Rs.3,50,000 against the petitioner in the Court of Judge Family Court on 9-12-1999. The petitioner filed written statement, controverted the allegations levelled in the plaint. Out of the pleadings of the parties, the learned Trial Court framed the following issues:— (i) Whether the plaintiff is entitled to get decree for recovery of dowry articles or its price Rs.3,50,000 as prayed for in the plaint? OPP ' f (ii) Whether the suit is barred by law? OPD »

(iii) Whether the suit has been filed by the plaintiff to harass and black-mail the defendant, if so, its effect? OPD * \ (iv) Relief.

" * P p The Judge Family Court decreed the suit vide judgment and decree, dated 29-1-2002 to the extent, of Rs.2,88,000. The petitioner being aggrieved preferred an appeal before the learned Addl. District Judge, Lahore, who partly accepted the same vide impugned judgment and decree, dated 11-1-2003 and modified the decree from Rs.2,88,000 to Rs.2,50,000. The petitioner being aggrieved filed this writ petition.

j * 2. The learned counsel of the petitioner submits that both the Courts below erred in law to reject the plea of the petitioner on the ground of estoppel whereas there is no estoppel against the statute. He M - further submits that agreement executed between the petitioner and respondent No.1 is in violation of section 3 of the Bridal Gift Restriction Act, 1976. According to section 3 of the aforesaid Act, no body is allowed to pay dowry more than Rs.5000 but this fact was not considered by both the Courts below, therefore, judgments of both the Courts below are also not in consonance with the mandatory provisions of section 23 of the Contract Act. He further submits that both the Courts below erred in law to accept the documents produced by the respondent No.1 without allowing the petitioner to cross-examine the witnesses, therefore, impugned judgments are not in accordance with the provisions of Qanun-e-Shahadat Order, 1984. He further submits that judgments of both the Courts below are not in accordance with the law laid down by the superior Courts. In support of his contentions, he relied-upon the following judgments:— .

. Haji Abdullah Khan v. Nisar Muhammad Khan PLD 1965 SC . 690 and Khan Azizul Hassan Khan v. Haji Muhammad Ismail , PLD 1972 Lahore 142. - m He further urges that both the Courts below have not delivered a judgment -in the eyes of law, which is not in consonance with the law laid down by the Honourable Supreme*Court in Hyderabad Development Authority v. Abdul Majeed etc. PLD 2002 SC 84.

He further submits p % that cash memos are estimated cost of Articles which were not * termed as receipts which were not proved in accordance with the Qanun-e-Shahadat Order, 1984, therefore, both the Courts below erred in law to decide the case against the

petitioner by relying upon the cash memos. In support of his contentions, he relied upon the following judgments:-- .

Sardar Baig v. The State 1978 PCr.LJ 92 and Messrs Bangle Friend & Co. Dacca v. Messrs Gour Benode Saha & Co.

Calcutta PLD 1969 SC 477.

There is no judgment at the cited page 1993 CLC 233. He further submits that both the Courts below have decided the case against the petitioner without advertng to the evidence on record and did not reappraisal the evidence after application of their judicial mind, therefore, judgments of both the Courts below are not sustainable in the eyes of law. He further submits that the First Appellate Court noted the contentions of the learned counsel of the petitioner but did not discuss the same while disposing of the appeal of the petitioner as js evident from para. 6 of the impugned judgment of the First Appellate Court. He further submits that the impugned judgments are*not in consonance with the law laid down by the superior Courts. In support of his contentions he relied upon the following judgments:— ' Muhammad Anwar v. Ciba Geigy Ltd. NLR 1991 AC 429, Ali Muhammad Khan v. Sher Zaman PLD1988 Pesh. 138, Mrs.

Batool v. Shehzad 2002 MLD 1087, Muhammad Anwar v.

Shaukat Ali 2000 CLC 1086 and Abdul Majid MIA v: Maulvi Nabiruddin Pramanik PLD 1970 SC 465. * m He further submits that case was decided against the petitioner on the basis of Ex.P.I and No,2 which were exhibited in ttie absence of the-counsel of the petitioner. The author of the documents was not produced by respondent No.I coupled with the fact that both the documents do not have signatures of the author. Similarly, two different inks and handwriting are visible from mere seeing the documents in question, therefore, both the Courts below erred in law to consider the said documents in evidence. He further submits that Exh.P.8, 20 and 22 are merely estimates therefore, both the Courts below erred in law relied upon these documents and respondent No.I has withheld her best evidence, therefore, both the Courts below erred in law to decide the controversy between the parties without advertng to Article 129-e of Qanun-e-Shahadat, 1984. In support of his contentions, he relied upon Mst. Bakht-e-Rawida v. Ghulam Habib and 2 others PLD 1992 Kar. 46, Syed Amjad Ali v. Mst. Shah Jehan and others PLD 1997 Kar. 399. He further submits that remaining Exhibits consisting of Exh.P.3. to P. 10 are also not proved by respondent No.I in accordance ' with the provisions of Qanun-e-Shahadat Order, 1984. He further submits that both the Courts below erred in law to decide issue No.2 against the petitioner as is evident from the findings of both the Courts below. The petitioner has specifically raised a preliminary objection in the written statement, therefore, it was the duty and obligation of the Courts below i to decide issue No.2 after judicial application of mind, therefore, judgments of both the Courts below are not sustainable in the eye of law. In support .of his contentions, he relied upon Mahnda etc. v. Shamim etc. 1995 CLC 908, Malik Muhammad Tufail and another v.

Messrs Fauji Fertilizer Go. Ltd. 2000 CLC 1838. He further submits h .

that judgments ,of both the Courts below are not in accordance with law, therefore, this Court has ample jurisdiction to set aside the same in Constitutional jurisdiction., to

support of his contention, he relied upon Muhammad Rafiq v. Mst. Kaneez Fatima 2000 SCMR 1563. He further submits that both the Courts below erred in law to decide the case against the petitioner by relying upon photographs, which are not admissible under the law. In support of his contention, he relied upon the following judgments:-- , - Haji Sirajuddin v. Haji G.M. Khan 1990 CLC 331, Muhammad Anwar v. Shaukat Ali, etc 2000 CLC 1086, Executive Engineer i C&W Mansehra and 2 others v. Muhammad Nasim Khan and 4 others 2002 CLC 427 and Hyderabad Development Authority v.

Abdul Majeed and others PLD 2002 SC 84.

He further submits that First Appellate Court has decided the case on the basis of its own experience, therefore, judgment passed on personal observation on the basis of usage which is not maintainable in the eye of law. In support of his contention, he relied upon Muhammad Iqbal Fasih v. National Bank of Pakistan, Lahore PLD 1980 Lah. 38.

* * 3. Learned counsel of respondent No.1 submits the facts in chronological order to show the conduct of the petitioner so that the discretion may not be exercised in his favour:— * r (1) Respondent No.1 filed a suit for dissolution of marriage against the petitioner before the Judge Family Court, Lahore on 20-9-1999; (j * (2) The petitioner filed suit against respondent No.1 for restitution of conjugal rights on 6-7-1999;

i j (3) The petitioner has given statement before the Judge Family Court that the marriage may be dissolved on the basis of Khula on 22-10-1999;

(4) The Judge Family Court decreed the suit of dissolution of marriage on the statement of the petitioner vide judgment and decree, dated 22-10-1999; (5) Respondent No.1 filed suit for recovery of dowry articles against the petitioner before the Judge Family Court, Lahore on 19-12-1999.

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(6) The petitioner filed written statement on 22-3-2002.

r (7) The Judge Family Court Lahore framed the issues on 9-5-2000 and the case was fixed for the evidence of respondent No.1 on 16-5-2000. .

' (8) The petitioner filed an application for framing of additional issues before the Judge Family Court on 8-7-2000.

(9) , The evidence was not recorded by the Judge Family Court on account of non-availability of the petitioner and the case was adjourned for 8-7-2000. On the said date evidence was also not recorded on account of the non-availability of the petitioner. Subsequently evidence of P.W.I. and 2 was recorded by the Judge Family Court on 8-7-2000. The petitioner and his counsel did not appear before the Judge Family Court. The Judge Family Court recorded the statements of P.Ws.I and 2.

1 4 m * (10) The petitioner submitted an application before the Judge Family Court for re-examination of P.Ws.I and 2 on 13-7-2000, which was dismissed by the Judge Family Court, vide order, dated 24-7-2000. The petitioner did not challenge the said order before

any higher forum, therefore, it has become final between the parties.

j (11) The cross-examination of P.W.2 was conducted on 4-1-2001 whereas cross-examination of P.W.1 was conducted on 24-2-2001 and the case was adjourned for evidence of the petitioner for 25-6-2001.

-t » (12) The petitioner failed to produce his evidence, therefore, Judge Family Court, Lahore was constrained to close the right of defence of producing evidence of the petitioner vide order, dated 9-10-2001. * '

(13) The petitioner being aggrieved filed an application for recalling of the order, dated 9-1-2001, which was dismissed by the Judge Family Court, vide order, dated 29-11-2001. .

. V hi (14) The petitioner being aggrieved filed Constitutional petition No.542-2002, which was allowed subject to payment of costs of Rs.5000 on '8-1-2002. The evidence ..of the petitioner was recorded by the Judge Family Court on 14-1-2002 and decreed the suit of respondent No.1 after appreciation of evidence on ' record vide impugned judgment and decree, dated 29-1-2002. 4 (15) The petitioner being aggrieved filed appeal before the learned Addl. District Judge, Lahore, who partly accepted the same vide impugned judgment and decree, dated 11-1-2003.

He further submits that grounds urged by the learned counsel of the petitioner before this Court were-not agitated by the petitioner in the written statement as is evident from the preliminary objection No.2 and findings of the Judge Family Court on issue No.2 and the First Appellate Court also rightly rejected the same on the ground that provisions of Civil Procedure Code, Evidence Act and Qanun-e-Shahadat d Order, 1984 are not applicable before the Judge Family Court qua the proceedings initiated under the West Pakistan Family Courts Act, 1964 by virtue of section 17. The said Act was amended vide Ordinance No. 45 of 2002 wherein specifically provisions of Qanun-e-Shahadat Order, 1984 are not applicable in the proceedings before the Judge Family Court. He further submits that both the Courts below have given concurrent findings of. fact against the petitioner after proper appreciation of evidence, therefore, Constitutional petition is not maintainable. The petitioner has only admitted Exh.P.15 only on the ground that this document was signed by his younger brother, therefore, four items mentioned in Exh.P.15, which relates to Exh.P.12 to Exh.P.14. He further submits that respondent No.1 has discharged her onus by producing documentary as well as oral evidence and there is no customs to mention the names of the purchaser in the cash memos qua the items in-question unless and until there is requirement of warranty/guaranty qua the goods purchased by the purchaser, therefore, both the Courts below were justified to consider the documentary evidence and after proper appreciation of evidence have giveu findings of facts against the petitioner. He further submits that the Bridal Gift Restriction Act, 1976 cast duties upon both the sides not to receive the goods from the parents of respondent No.1 at the time of marriage as is evident from the provisions of sections 3, 9 and Rule framed thereunder i.e. the Bridal Gift Restriction Act, 1976, therefore, both the Courts below were justified to decide the case against the petitioner on the well known principle of estoppel. He further submits that parties are bound by their pleadings, therefore, new grounds raised by the learned counsel of the petitioner before this Court or before the First Appellate Court are not sustainable in the eye of law. In support of his contention, he relied upon the following judgments:— , Muhammad Tazeel v. Mst. Khair-

Un-Nisa 1995 SCMR 885, Custodian of Evacuee Property AJ&K v. Tariq Mahmood Butt 2001 YLR 3139, Mst. Attar Jan v. Mst. Resham and others * < 2001 YLR 3293; Municipal Corporation Mirpur v. Qazi ' Muhammad Farooq and 2 others 2001 YLR 3310; Nazar Muhammad v. Muhammad Nawaz and 6 others 2001 YLR 1501, Shoukat Ali v. Karachi Electricity Supply Corp. 2001 MLD 1845, Messrs Sulamic Corporation v. United Bank Limited 2002 MLD 1644.

He further submits that both the Courts below were justified to consider the custom of the country, which is in accordance with the law laid down by the superior Courts. In support of his contention, he relied upon Syed Munir Hassan v. Shamsa Safdar PLD 2003 Kar. 519. He further submits that provisions of C.P.C. and Qanun-e-Shahadat Order, 1984 are not applicable. In support of his contention, he relied upon Muhammad Javed Iqbal v. Mst. Tahira Naheed 2002 CLC 1396. He further submits that issue No.2 relating to bar of jurisdiction was rightly rejected by the Courts below in view of the preliminary objection No.2 in the written statement filed by the petitioner wherein the objection was not raised by the petitioner and first time raised by the petitioner before the First Appellate Court and the judgments of both the Courts below are in accordance with the law laid down by the Honourable Supreme Court. In support of his contention, he relied upon Muhammad Tazeel v. Mst. Khair Un-Nisa 1995 SCMR 885.

5. Learned counsel of the petitioner in rebuttal submits that West Pakistan Family Courts Act, 1964 was amended by the Ordinance 45 of .

2002 on 1-10-2002 wherein the provisions of Qanun-e-Shahadat Order, 1984 is not applicable in the proceedings before the Judge Family Court whereas the suit was decreed on 29-1-2002, therefore, amendment has no retrospective effect. He further submits that agreement is hit by section 3 of the Bridal Gift Restriction Act, 1976, therefore, agreement between the petitioner and respondent No.1 is void in view of Section 23 of the Contract Act, therefore, judgments of both the Courts below are not sustainable in the eye of law. He further submits that judgments relied by the learned counsel of respondent No.1 are distinguished on facts and law. - i 6. I have given my anxious consideration to the contentions of the learned counsel of the parties and perused the record.

7. It is better and appropriate to reproduce relevant sections of West Pakistan Family Courts Act, 1964 alongwith amendment.

L Section 13(3).— Where a decree relates to the payment to money and the decretal amount is not paid within the time specified by the Court, the same shall, if the Court so directs to recover as arrears of land Revenue, and no recovery shall be* paid to the decree-holder.

(4) The decree shall be executed by the Court passing it or by such other Civil Court as the District Judge may, by special or general order, direct.

(5) A Family Court may, if it so deems fit, direct that any money to be paid under a decree passed by it be paid in such instalments as it deems fit. .

“Section 17. Provisions of Evidence Act and Code of Civil Procedure – riot to apply.— (1)

Save as otherwise expressly provided by or under this Act, the provisions of the Qanun-e-Shahadat, 1984 (P.O. No. 10 of 1984) (under line is mine. The under lined portion is substituted by amendment LV on 2002, dated 1-10-2002) and the Code of Civil Procedure, 1908 except sections 10 and 11 shall not apply to proceedings before any Family Court, in respect of part I of Schedule.” It is settled principle of law that purpose of enacting the Special Law regarding the family disputes is for the purpose of advancement of justice and to avoid technicalities, which are hindrance in the ultimate justice between the parties, therefore, Court has to regulate its own proceedings in view of the provisions of the West Pakistan Family Courts Act, 1964. In arriving to this conclusion, I am fortified by the law laid down by this Court in Ghulam Murtaza v. Addl. District Judge and others 1999 CLC 81. It is pertinent to mention here that Family Courts Act was promulgated and the Family Courts were established for the expeditious settlement and disposal of disputes relating to marriages and other family affairs and special procedure was also to achieve the object referred to above for the purpose of the provisions of Evidence Act and Civil Procedure Code 1908 were not made applicable to the proceedings before any Family Court under section 17 of the Act and subsequently provisions of Qanun-e-Shahadat Order, 1984 was also not made applicable to the proceedings before any Family Court in view of the amendment in the Family Court Act mentioned above, therefore, the difference between the proceedings of Civil nature and proceedings before a Family Court has to be taken into consideration by the Court at the time of disposal of such disputes and the matter connected with the family affairs. The perusal of the provisions of the Family Court Act makes it crystal clear that the method of institution of suits and recording of the evidence, is altogether different from the cases instituted in the Civil Courts. On this account, the evidence adduced before the Family * Court cannot be evaluated and appraised in a manner as it is appreciated in cases presented under the Civil Procedure Code. In such state of affairs, the documentary evidence produced by respondent No.1 was rightly relied by the Courts below that the list of dowry articles was exhibited. Respondent No. 1 has appended the list of her dowry articles as well as the receipts with her plaint. She has also tendered the above mentioned documents in her statement recorded by the Courts below, which was corroborated by her mother by appearing before the Judge Family Court, coupled with the perusal of Exh.P.15 which was admitted by the petitioner as the same was duly signed by his younger brother, therefore, denial of the petitioner qua the remaining dowry articles is not sustainable in the eye of law. As both the Courts below have reappraised all the documents in-question and the evidence, have given concurrent findings of fact against the petitioner, therefore, both the Courts below were justified to ignore the objection raised by the petitioner, which is in consonance with the preamble of the West Pakistan Family Courts Act, 1964 that is why Special Court is constituted for expeditious disposal and justice that is why the provisions of the Evidence Act, Qanun-e-Shahadat Order, 1984, and Civil Procedure Code are not applicable in the proceedings before, the Judge Family Court in view of the aforesaid provisions of law. In the light of the above said oral and documentary evidence, it has been proved on the record that the dowry articles worth Rs.2,50,000* were given to (he respondent No.1 at the time of marriage ceremony, which are still in possession of the petitioner and had to be handed over to respondent No.1 that both the Courts below have given concurrent findings of fact against the petitioner. Under this Act, Family Court has to regulate its own proceedings in accordance with the provisions of this Act and in doing so it has to proceed on the premises that every procedure is] 1 s permissible unless a clear prohibition is found in law. Meaning thereby the Family Court can exercise its own powers to prevent the course

of] justice being deflected from the path as the law laid by this Court in Abdul Majid v. Judge Family Court Karorepacca 2003 YLR 884. It is also settled principle law that Family Court Act is a remedial statute. Its enactment was actuated, with beneficial object behind it, for expediting the matrimonial and family disputes by simplifying the procedure and curtailing the technicalities of the procedural law. Keeping in view the weaker limb of the Society; in juxtaposition of our social and socioeconomic conditions. It is established principle of interpretation of statutes that the remedial laws are to be liberally construed and can be assigned to it without being presumptuous. The purpose of enacting the aforesaid Act is to avoid technicalities of the Evidence Act and Code of Civil Procedure so that the family matters can be settled by way of administration of justice in its true sense unhindered by technicalities. In arriving to this conclusion, I am fortified by the law laid down in the following judgments:-] p Zulfiqar Ahmad v. Judge Family Court 1996 MLD 1997, Mst. Neelam Nosheen v. Raja Muhammad Khaqan 2002 MLD 784, Intizar Hussain v. The State 1998 MLD 1890, Zameer Muhammad Khan v. Fateh Muhammad 1993 CLC 133, . Muhammad Saeed Qureshi v. Mst. Ifat Ara 1969 SCMR 145, Hameeda Begum v. Murad Begum PLD 1975 SC 624 and Haji Nizam Khan v. Addl. District Judge PLD 1976 Lah. 930..

The ratio of the aforesaid judgments is that all the provisions of C.P.C. and Evidence Act are generally speaking are not made applicable to the trials before the Family Courts. And instead the Court is given a real inquisitorial jurisdiction by introduction of special procedure including an obligatory effect to discover the possibilities of amicable settlement as .the law laid down by the Honourable Supreme Court in Muhammad Azam v. Muhammad Iqbal and others PLD 1984 SC 95. The question 'was raised before the Division Bench of this Court that the procedure prescribed under the Guardian and Wards Act does not exclude application of Evidence Act. The Division Bench of this Court has laid down the -principle in Begum Zainab Tiwana v. Ch. Aziz Ahmad Waraich etc. PLD 1967 Lah. 977 in the following terms:-- "v p "None of these contentions are tenjbl? because the language of ' section 17 is unambiguous and' unmistakable. There is. no question of retrospective effect because section i7 is sought to ' be applied to an application which was made after the law was ' * . enforced ,and there is no question of vexing anybody again arid * —» again on any one ground because the cause of action is recurring. " ' .

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It is also settled principle of law that Special Law excludes the general ' law as the law laid down by the superior Courts in Muhammad Asim F Malik v. Anwar Jalil and A others PLD 1989 Lah. 279. The relevant p - p observation is as follows:-- - "Therefore, provisions of section 9 in so far as they allow the evidence of exhibits, depositions, statements on oath,' duly authenticated in the manner provided therein to be received in the inquiry are an exception to the general procedure laid down in the Code of Criminal Procedure and the Evidence Act, 1872/Qanun-e-Shahadat Order, 1984. Having regard to the object underlying the law of extradition and its kind and nature, the inquiry conducted by a Magistrate to find out the existence or otherwise of a prima facie case could not be equated with a regular trial by a Court of law. Therefore, the argument of the t learned counsel of the petitioner that the provisions of Qanun-e-Shahadat prohibiting the reception of a particular kind .of evidence, at inquiry, must prevail over the special provisions in the Extradition Act, with respect to. him, is observed, that as to

authentication of documentary- evidence, learned counsel for the y petitioner raised no dispute. " Reference can also be made to the following judgments Zia-ur-Rehman's case PLD 1973 SC 49 and Mian Nawaz Sharif's case PLD 1993 SC 473.

The pleas raised by the learned counsel of the petitioner qua considering the documents cash memos by the Karachi High Court in Syed Munir Hussain v. Shamsa Safdar PLD 2003 Kar. 519 and laid down the following principle:— . .

. * "The only grievance of the appellant is that Jahaiz list was not signed by the appellant. That is not customary in our society to get the Jahaiz list signed from bridegroom so as to avoid the controversies on the very first day of marriage. The cash memos, list of Jahaiz and the oral evidence by respondent have been appreciated by the two Courts below and the findings are concurrent." W i Both the Courts below have given concurrent findings of fact against the] petitioner, therefore, Constitutional petition is not maintainable. In arriving to this conclusion, I am fortified the law laid down by the Honourable Supreme Court in the following judgments:— Khuda Bukhsh v. Muhammad Sharif and another 1974 SCMR 279, Muhammad Sharif v. Muhammad Afzal Sohail etc. PLD 1981 SC 246 and Abdul Rehman Bajwa v. Sultan and 9 others PLD 1981 SC 522.

It is also settled principle of law that Constitutional jurisdiction is discretionary in character. I am not inclined to exercise my discretion in favour of the petitioner, keeping in view the special features and circumstances of the case in hand as the law laid down by the) Honourable Supreme Court in the following judgments:— Nawab Syed Raunaq Ali's case PLD 1973 SC 236, Haji Saif Ullah's case PLD 1989 SC 166 and Rana Muhammad Arshad's case 1998 SCMR 1462.

It is also settled principle of law that each and every case is to be * decided on its own peculiar circumstances and facts and every judgment must be read as applicable to the peculiar facts proved or assumed to be proved. The judgments cited by the learned counsel of the petitioner are distinguished on facts and law in view of non-application of Evidence Act and Code of Civil Procedure arising out of Special Law whereas the judgments cited by the learned counsel of the petitioners on General Law are not applicable as per law laid down by the Honourable Supreme Court in "Trustee Board of Karachi's case" 1994 SCMR 2213. The Judge Family Court passed the impugned decree on 29-1-2002 whereas the Qanun-e-Shahadat Order, 1984 was substituted on 1-10-2002. It is pertinent to mention here that Evidence Act was already mentioned in section 17, in case the plea of the counsel of the petitioner is accepted then it is against the spirit and object of the Family Courts Act, , and intention of Legislature, therefore, this plea has no force. It is also admitted fact that there is no contract executed between the parties qua delivery of dowry articles, therefore, there is no question arises of declaring any contract to be void on account of violation of section 23 of b the Contract Act. Coupled with the fact that parties are bound by their pleadings, these pleas were not raised by the petitioner in the written statement, therefore, both the Courts were justified to decide against the petitioner and not considered the same which is in accordance with law * laid down by the Honourable Supreme Court in the following * judgments:— * Mst. Jannat Bibi v. Sher Muhammad and others 1988 SCMR 1696 and Messrs Choudhry Brothers Ltd. Sialkot vv The Jaranwala Central Cooperative Bank Ltd. 1968 SCMR 804. , * In view of what has been discussed above, this Constitutional petition has no merit and the same is dismissed with no order as J to costs.

Petition dismissed.