

2003 Y L R 2159

[Peshawar]

Before Muhammad Qaim Jan Khan and Abdur Rauf Khan Lughmani, JJ

MUHAMMAD AAMIR and another---Petitioners

Versus

Mst. SHABANA NISAR and 2 others---Respondents

Writ Petition No.50 of 2003, decided on 9th April, 2003.

West Pakistan Family Courts Act (XXXV of 1964)---

---S.5 & Sched.---Constitution of Pakistan (1973), Art.199---Constitutional petition--Suit for recovery of dower amount agreed to be paid by father of husband (defendant) in lieu of land entered by them in dower deed--Family Court decreed the suit and Appellate Court upheld the same---Validity---Father of husband had agreed to pay dower amount through agreement deed after filing of criminal case by plaintiff (wife) in respect of land entered in dower deed, but was not in existence at all---Defendant had not admitted such agreement deed nor had appeared before Family Court for conciliation--Defendant in written statement had given evasive answer to relevant para of plaint--Evidence had been thrashed by Courts below, which being factual matters did not need interference---High Court dismissed Constitutional petitioner in limine.

Ghulam Mustafa and S. Abdul Manan Shah for Petitioners.

Khalid Rehman Qureshi for Respondents.

Date of hearing: 9th April, 2003.

JUDGEMNT

MUHAMMAD QAIM JAN KHAN, J.---The Constitutional petition in hand is directed against the judgment and decree of Judge Family Court, Haripur dated 14-1-2002 as well as against the judgment and decree of District Judge-I, Haripur dated 15-10-2002 vide which the suit of the petitioner for conjugal rights has been dismissed and the suit of respondent No. 1 with regard to the recovery of dower amount of Rs.2,00,000, maintenance of Rs.9,000 and dissolution of marriage was decreed in her favour and appeal against the said decree was also dismissed.

2. We have heard the learned counsel at length and have also scrutinized the available Accord. Being factual matters the evidence has been thrashed by the two Courts below and needs no interference. The conduct of this present petitioner and his father is crystal clear as they have entered 5 marlas of land in Khasra No.716/13 in the dower deed was not in existence at all, so

the plaintiff filed criminal complaint in this regard. Later on due to an agreement deed the father of the petitioner agreed to pay Rs.2,00,000 in lieu of 5 marlas of land but the petitioner is not admitting the agreement deed of his father. He never appeared before the Judge Family Court for conciliation proceedings. Moreover, with regard to para 5 of the plaint the present petitioner in his written statement has given an evasive answer. So keeping in, view all these factors we are not inclined to interfere in the orders of the two forums below and the writ petition in hand being devoid of any substances is hereby dismissed in limine.

S.A.K./310/P

Petition dismissed.