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Mst. Bibi Asma VS Lal Jauhar.

Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order No.03	28.02.2023	<p>(1). Insaf Ali Advocate, the counsel for appellant present.</p> <p>(2). In a suit before the learned trial court, the appellant being plaintiff sought recovery of 05 tolas of golden ornaments or its market value and cash amount of 100,000/- as dower, maintenance allowance at the rate of Rs. 10,000/- from November, 2018 till the subsistence of Nikah, recovery of dowery articles or their market value in the sum of Rs. 386,200/- and recovery of Rs. 50,000/- as medical expenses. It was alleged in the plaint that the appellant/plaintiff contracted a marriage with respondent/defendant on 25.07.2017 against the aforementioned dower. The appellant/plaintiff tried her best to prove herself as obedient wife but the respondent/defendant used to treat her cruelly from the very initial days of marriage and at last expelled her from the house in 2018 and since then she is residing at the house of her parents. The respondent/defendant contested the suit through written statement objecting to the claim of appellant/plaintiff on various legal and factual grounds. He contended that the dower of the appellant/plaintiff was fixed as 02 tolas of golden ornaments and cash amount of Rs. 100,000/- which has already been paid. That besides dower the respondent/defendant had also paid Rs.</p>


Shaukat Ahmad Khan
District & Sessions Judge,
Orakzai at Baber Mela

28/02/23


IN THE COURT OF DISTRICT JUDGE, ORAKZAI AT BABER MELA

Case Title: Mst. Bibi Asma VS Lal Johar

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<p>Contin. Order No.03</p>		<p>100,000/- to the father of appellant/plaintiff for purchase of dowery articles and that appellant/plaintiff is a self-deserted wife.</p> <p>(3). Pleadings of the parties were culminated by the learned trial court into the following issues;</p> <ol style="list-style-type: none"> 1. Whether the plaintiff has got a cause of action? 2. Whether the plaintiff is estopped to sue? 3. Whether the plaintiff is entitled to the recovery of 05 tola gold or its market value and 01 lac cash as dower from the defendant? 4. Whether the plaintiff is entitled to the recovery of Rs. 10,000/- as maintenance since November, 2018 till the subsistence of a valid Nikah between the parties on the ground of her ouster from the house by the defendant? 5. Whether the plaintiff is entitled to the recovery of dowery articles as per the list annexed with the plaint or its market value of Rs. 386,000/- from the defendants? 6. Whether the plaintiff is entitled to the recovery of Rs. 50,000/- incurred upon her treatment from the defendant? 7. Whether the plaintiff is a self-deserter and the defendant is entitled to the restitution of conjugal rights? 8. Whether the plaintiff is entitled to the decree as prayed for? 9. Relief. <p>(4). Parties were given opportunity to produce pro and contra evidence in support of their respective contentions.</p> <p>(5). Accordingly, appellant/plaintiff appeared in the witness box as PW-1. She also produced Ummat Khan</p>


 Shaukat Ahmar Khan
 District & Sessions Judge
 Orakzai at Baber Mela
 28/5/23


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<p>Contin. Order No.03</p>	<p> Shaukat Ahmad Khan District & Sessions Judge Orakzai at Baher Mela</p>	<p>and Aman Ullah as PW-2 & PW-3 respectively. On the other hand, respondent/defendant himself appeared in the witness box and remained contented with his sole statement. After having heard the arguments, the learned trial court turned down the suit of appellant/plaintiff to the extent of recovery of dower, maintenance allowance and medical expenses; however, passed a decree to the extent of recovery of dowery articles or their market value.</p> <p>(6). The respondent/defendant, being aggrieved of the impugned decree/judgment, filed appeal to the extent of decree of dowery articles. The present appellant/plaintiff being respondent in said appeal was summoned, she attended the court through attorney and contested the appeal but did not opt to file cross objections. The appeal was decided vide judgment dated 30.01.2023 of this court wherein the decree of trial court was modified to the extent of dismissal of suit of present appellant/plaintiff for recovery of dowery articles as well.</p> <p>The appellant/plaintiff has later on filed the instant appeal along with application for condonation of delay.</p> <p>(7). Preliminary arguments and arguments on application for condonation of delay heard and record perused.</p>


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<p>Contin. Order No.03</p>	 <p>Shaukat Ahmad Khan District & Sessions Judge, Orakzai at Baber Mela</p>	<p>Perusal of case file shows that the decree/judgment in the instant case has been passed on 20.12.2022. Rule 22 of West Pakistan Family Court Rules, 1965 provides a period of 30 days for filing of appeal against the decree/judgment of family court excluding the time required for obtaining copies of the decree and decision. The appellant/plaintiff has applied for copies on 02.01.2023 and the same have been delivered to her on 04.01.2023, as such the appellant was required to file appeal on or before 23.01.2022, excluding a period of 03 days consumed upon obtaining the copies of decree and decision. But the instant appeal has been preferred on 17.02.2022 with a delay of about 25 days. The main ground for condonation of delay, as per application of appellant is, that she was seriously ill and could not file the appeal. However, the application is neither supported by any medical prescription nor any other document. Further, as per copies of judgment/decree 30.01.2023 in family Court Appeal No. 1 of 2023 titled "Lal Jauhar Vs Mst. Bibi Asma" where the present respondent being appellant has partially challenged the impugned judgment/decree of the family Court, the present appellant has appeared through her father being her attorney and contested the same but she has neither opted</p>

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<p>Contin. Order No.03</p>		<p>to file cross objections nor preferred any appeal despite the fact that she had already obtained copies of decree/judgment in the instant case. Moreover, she also failed to prove any other cause prevented her to file appeal against the impugned decree/judgment.</p> <p>(8). Hence, in view of what is discussed above, the application for condonation of delay is being devoid of merits, dismissed and resultantly the instant appeal being barred by time is dismissed in limini. File of this court be consigned to Record Room.</p> <p><u>Pronounced:</u> 28.02.2023</p> <p> (SHAUKAT AHMAD KHAN) District Judge, Orakzai at Baber Mela</p>

