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IN THE COURT OF REHMAT ULLAH WAZIR,
Civil Judge/ FAMILY COURT, ORAKZAI.

Family Suit No. 4/3 of 2019

Date of Institution: 15.11.2019

Date of Decision: 24.10.2020

Mst Said Bibi D/O Gul Mezan

Resident of Samana, Jonda, District Orakzai..... (Plaintiff)

VERSUS

1- Fazal Rehman S/O Lal Mazan

Residents of Qoum Rabia Khel, Tappa Behram Khel, Jonda, Samana,
Tehsil Ismail Zai, District Orakzai..... (Defendant)

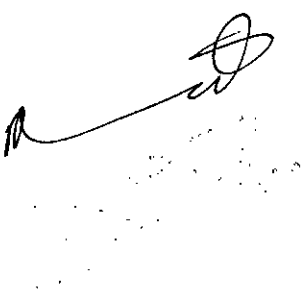
**SUIT FOR RECOVERY OF DOWER,
MAINTENANCE AND DISSOLUTION OF
MARRIAGE THROUGH *KHULA*.**

JUDGMENT:

Through this judgment I intend to dispose-of the instant suit, instituted on 15.11.2019, through which the plaintiff sought for recovery of dower, maintenance and dissolution of marriage through *Khula*.

Brief facts of the case are that the marriage of the parties was contracted in Sep, 2017. That the dower was fixed as 02 Tolas Gold and Rs. 5000/- cash which is still unpaid. That the Rukhsati has taken place. That she was residing with the defendant and for 01 month she was discharging her matrimonial obligations in a

good manner. That since the beginning, the attitude of the defendant and his parents was very harsh and they used to beat the plaintiff for nothing. That lastly on 10.10.2017, she was beaten up by the defendant and ousted her of his house in the worn clothes and since then she is residing with her parents. That since her ouster, the defendant has neither bothered about her nor paid any maintenance to her. That the defendant was asked to pay the maintenance and the entire outstanding dower but he refused. That all the aforesaid wrong deeds on the part of the defendant created hate in the heart of the plaintiff that is why she cannot rehabilitate with the defendant as a wife, therefore, her marriage be dissolved through *Khula* and she be paid the outstanding dower and maintenance.



Defendant was summoned, who appeared before the court and contested the suit, negated the contention of the plaintiff by submitting his written statement.

Pre-trial reconciliation was conducted but failed and resultantly the marriage of the parties was dissolved on the basis of *Khula* in lieu of dower vide Or-14, Dated: 11.06.2020.

Thereafter, the divergent pleadings of the parties were reduced into the following issues.

ISSUES:

1. *Whether the plaintiff has got a cause of action?*
2. *Whether the defendant along with his family members used to torture the plaintiff and finally she was ousted of his house on 10.10.2017 and since then she is residing with her parents?*
3. *Whether the plaintiff is entitled to the recovery of her maintenance @ Rs. 10,000 per month since 10.10.2017 till the expiry of her iddat period?*
4. *Whether the plaintiff is entitled to the decree as prayed for to the extent of the recovery of maintenance?*
5. *Relief.*

The parties produced their respective evidence (placed on file) on the above issues, as they wished and after the closing of evidence, post-trial reconciliation has been conducted but failed.

Arguments of both the counsel for the parties heard. My issue wise findings are as under;

Issues No. 02 and 03:

Both these issues are interlinked, hence, taken for discussion.

The plaintiff alleged in her plaint that the marriage of the parties was contracted in Sep, 2017. That the dower was fixed as 02 Tolas Gold and Rs. 5000/- cash which is still unpaid. That the Rukhsati has taken place. That she was residing with the defendant and for 01 month she was discharging her matrimonial obligations in a good manner. That since the beginning, the attitude of the defendant and his parents was very harsh and they

used to beat the plaintiff for nothing. That lastly on 10.10.2017, she was beaten up by the defendant and ousted her of his house in the worn clothes and since then she is residing with her parents. That since her ouster, the defendant has neither bothered about her nor paid any maintenance to her. That the defendant was asked to pay the maintenance and the entire outstanding dower but he refused. That all the aforesaid wrong deeds on the part of the defendant created hate in the heart of the plaintiff that is why she cannot rehabilitate with the defendant as a wife, therefore, her marriage be dissolved through *Khula* and she be paid the outstanding dower and maintenance.

The burden to prove these issues was on the plaintiff. The plaintiff produced only one witness as Mr. Gul Mazan, the father and the special attorney of the plaintiff appeared as PW-01, who narrated the same story as in the plaint but admitted in his cross examination that it is correct that after marriage, the plaintiff resided with the defendant only for 14 days. Further admitted that it is correct that we have not lodged any FIR with respect to the beating of the plaintiff by the defendant.

In order to counter the claim of the plaintiff, the defendant produced only one witness, as the defendant himself appeared as DW-01, who narrated the same story as in the written statement.

He has been cross examined but nothing tangible in favour of the plaintiff has been extracted out of him during cross examination.

Thus, in the light of the aforesaid findings, the plaintiff badly failed to prove her ouster by the defendant. Admittedly as per the statement of PW-01, she has resided with the defendant only for 14 days which is very negligible and unnatural period for a couple to beat each other especially for a couple when both are young and have their first marriage. No presumption of torture can be drawn on the part of the defendant in a partnership of only 14 days. Also, the plaintiff failed to produce any other piece of evidence in support of the aforesaid allegations.

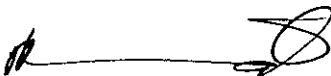
Thus, both these issues are decided in negative for want of proof.

Relief:

As sequel to my findings on the above discussed issues, the suit of the plaintiff hereby *dismissed*.

6. File be consigned to record room after its necessary completion and compilation.

Announced
24/10/2020


(Rehmat Ullah Wazir)
JFC/CJ-I,
Orakzai (at Babe Mela).

CERTIFICATE

Certified that this judgment of mine consists of six (06) pages, each has been checked and corrected where necessary and signed by me.



(Rehmat Ullah Wazir)
JFC/CJ-I,
Orakzai (at Babe Mela).