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**Order No.09**

22.12.2022

Plaintiff present in person. None present for defendant. Arguments on application for rejection of plaint already heard and record perused.

This order of mine is intended to dispose of application for rejection of plaint filed by petitioner/defendant namely Gul Zamina Jan.

Brief facts as per averments of plaint are that Nikah of plaintiff was solemnized with defendant according to Sharia Muhammadi in lieu of 04 Tola Gold as dower which was paid to the defendant. Defendant is the second wife of plaintiff. That defendant has left the house of plaintiff along with minor children namely Inab Ali and Mst. Noor Zumra without any reason. Defendant is not ready to abide with plaintiff. Future of minors is at stake as defendant is an illiterate lady. That she was asked time and again to return back to plaintiff's house but in vain, hence the present suit.

Petitioner/defendant is seeking rejection of plaint on the ground that petitioner/defendant has filed a family suit against respondent/plaintiff in the Family Court at District Kohat, therefore, plaint be rejected as prayed for.

Per law, Family Court functions under Family Courts Act, 1964.

**ZAHIR KHAN**  
Civil Judge  
Kalaya Orakzai

Husband in a family suit can seek restitution of conjugal rights or jactitation of marriage along with custody and guardianship of children in his written

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statement in the same suit, however, application for rejection of plaint filed by petitioner/defendant is not maintainable.

The normal rules providing for territorial jurisdiction for trial of cases in family Courts have been relaxed in favour of female than to the convenience of the male as female are generally put to great inconvenience if ordered to pursue her suit in Family Court at some distance. Convenience of a litigant is main determining factor in family cases. Resultantly, plaint is returned to the respondent/plaintiff for its presentation before the Family Court at District Kohat. Application disposed of accordingly. Moharrir is directed to do the needful.

File of this court be consigned to record room after necessary completion and compilation.

**Announced.**  
**22.12.2022**



**Zahir Khan**  
Civil Judge-I, Kalaya, Orakzai