JUDGMENT SHEET

ISLAMABAD HIGH COURT, ISLAMABAD, JUDICIAL DEPARTMENT

W.P. No. 2561 – 2025

Asia Ijaz
Vs.
Additional District Judge-West, Islamabad and others.

Petitioner by:	Mr. Ali Ahmed Shah, & Raja Hamza Tahir, Advocates.
Respondents by:	Mr. Usman Rasool Ghumman, AAG. Ms. Saadia Shahzadi, Advocate for CDA, respondent No.7. Muhammad Javed Awan, Advocate for respondents No. 2 to 6. Dr. Zeeshan Ashraf, Advocate, Head of Department, IVY School of Law, IVY College of Management Sciences, Lahore, *Amicus Curiae*.
Assisted by:	Ms. Amber Qayyum, Law Clerk
Date of Hearing:	26.01.2026.

MOHSIN AKHTAR KAYANI, J: Through this writ petition the petitioner has assailed the judgment and decree dated 01.11.2024 passed by learned Judge Family Court, West, Islamabad, which has further been upheld by the learned first appellate court vide judgment and decree dated 26.03.2025, whereby, suit of the petitioner for grant of dower, mandatory and permanent injunction has been dismissed on account of barred by limitation.

2. Brief facts referred in the instant writ petition are that the Petitioner is the legally wedded wife and widow of late Mr. Ijaz Ahmed Khan, who solemnized Nikah with her in accordance with

Islamic injunctions on 18.09.1991, which was duly registered on 26.09.1991. Under Column No. 16 of the Nikah Nama, House No. 1415, Sector I-10/1, Islamabad, was specified as her dower (Haq Mehr). It is an admitted position that the said property was never transferred in the name of the Petitioner during the lifetime of her husband. Instead, the husband sold the said property in the year 2001. From the sale proceeds, he purchased another property bearing House No. 265, Street No. 90, Sector I-8/4, Islamabad. The Petitioner asserts that it was mutually understood between the spouses that the subsequently purchased property would stand in lieu of the originally agreed dower. In this regard, a Gift Deed dated 12.03.2009 was executed by the deceased husband in favour of the Petitioner, allegedly in discharge of his dower obligation.

3. After the death of her husband on 20.11.2013, the Petitioner filed a civil suit on 26.04.2014 before the learned Civil Court seeking declaration and related relief on the basis of the said Gift Deed, consistently pleading that the gift was executed in lieu of her dower. The learned Civil Court, vide judgment dated 10.11.2022, dismissed the suit on the ground that the marginal witnesses of the Gift Deed were not produced for cross-examination. The question of entitlement to dower was not adjudicated as the Civil Court was not vested with jurisdiction to determine such matrimonial claims. Thereafter, the Petitioner filed a suit for recovery of dower before the learned Family Court on 08.12.2022. The learned Family Court dismissed the suit on the ground of res judicata. In appeal, the

Islamabad High Court, Islamabad.

learned Additional District Judge set aside the finding on res judicata but dismissed the suit on the ground of limitation under Article 104 of the Limitation Act, 1908, holding that a claim for recovery of dower is subject to a limitation period of three years. Aggrieved by the dismissal of her suit on limitation, the Petitioner has invoked the constitutional jurisdiction of this Court.

4. Learned counsel for the Petitioner submits that the impugned appellate judgment is legally unsustainable. It is argued that the learned Appellate Court failed to consider the mandatory provisions of Section 14 of the Limitation Act, 1908, which require exclusion of time spent in bona fide proceedings before a Court lacking jurisdiction. It is contended that the earlier civil suit was prosecuted in good faith, as the Petitioner consistently pleaded that the Gift Deed was executed in lieu of dower. Since matters relating to dower fall exclusively within the jurisdiction of the Family Court under Section 5 read with Schedule I of the West Pakistan Family Courts Act, 1964, the Civil Court lacked jurisdiction to adjudicate upon the substantive right of dower. Learned counsel argues that Section 14 of the Limitation Act is mandatory in nature and that time spent before the Civil Court, including appellate proceedings, ought to have been excluded while computing limitation. It is further contended that the Petitioner acted with due diligence and good faith throughout. The dismissal of the civil suit was on technical grounds relating to proof of the Gift Deed and not on merits of the dower claim. Therefore, the right of dower remained intact. Learned

Islamabad High Court, Islamabad.

counsel submits that limitation is a mixed question of law and fact and could not have been decided at the appellate stage without framing of issues and recording of evidence. Moreover, the plea of limitation was not raised before the trial court. It is also argued that dower is a sacred and absolute right arising from the Nikah Nama, which remains unchallenged. The Nikah Nama carries legal presumption of correctness, and the Petitioner's entitlement cannot be defeated on procedural technicalities. Lastly, it is contended that strict application of Article 104 of the Limitation Act, particularly in cases of deferred dower becoming due upon death of the husband, results in grave injustice and undermines both Islamic principles and constitutional guarantees of access to justice.

5. Learned counsel for the Respondents supports the impugned judgment and submits that the suit for recovery of dower was clearly barred by limitation under Article 104 of the Limitation Act, which prescribes a period of three years. It is argued that the cause of action arose upon the death of the husband in 2013. The family suit filed in December 2022 was therefore hopelessly time-barred. The Respondents contend that Section 14 of the Limitation Act is not applicable, as the earlier civil suit was not dismissed on the ground of lack of jurisdiction but on failure to prove the Gift Deed. Therefore, the benefit of exclusion of time cannot be extended. It is further submitted that litigation must attain finality and that the Petitioner cannot be permitted to re-agitate matters already adjudicated. According to the Respondents, the appellate court

Islamabad High Court, Islamabad.

rightly exercised its authority in dismissing the suit as barred by time.

6. Arguments heard, record perused.

7. The Court appointed Dr. Zeeshan Ashraf, Advocate High Court, as *Amicus Curiae* in order to provide assistance on the legal, constitutional, and Islamic dimensions of the present matter. The *amicus* has submitted an extensive report, which this Court has considered with appreciation. The report addresses the constitutionality of Article 104 of the Limitation Act, 1908 in relation to dower claims, the status of dower under Islamic law, the applicability of Section 14 of the Limitation Act, and the jurisdictional and comparative perspectives, including practices in other Muslim jurisdictions. The learned *amicus* emphasized that under Islamic jurisprudence, dower (*Haq Mehr*) is an essential element of the marriage contract and constitutes a legally binding debt upon the husband. It is not a mere formality or a gift that can be waived by lapse of time. In the event of the husband's death, the unpaid dower becomes a debt against his estate, which must be settled prior to the distribution of inheritance among heirs, as clearly provided in Surah Al-Nisa (verses 11–12) and reflected in provisions of Muhammadan Law. Mere delay by the wife in claiming her dower does not amount to waiver, and any remission of the dower must be clear, voluntary, and uncoerced. Therefore, the imposition of a rigid three-year limitation under Article 104 of the Limitation Act is inconsistent with Islamic injunctions, which treat dower as a

Islamabad High Court, Islamabad.

continuing obligation. From a constitutional perspective, he observed that Article 104's rigid three-year limitation conflicts with Islamic injunctions and Articles 3, 25, 35, 37(d), 38, and 227 of the Constitution, disproportionately affecting widows. It was submitted that in interpreting limitation provisions, the courts should endeavor to harmonize statutory law with fundamental rights and Shariah principles to avoid unjust deprivation of lawful claims. Having carefully considered the submissions of the learned counsel and the valuable assistance rendered by the learned *Amicus Curiae*, and upon due examination of the statutory provisions, constitutional framework and principles of Islamic jurisprudence this Court now proceeds to record its independent analysis and conclusions on the legal and constitutional questions arising in the present petition.

Islamic Principles on Dower as a Debt:

8. Under Islamic law, dower (*Haq Mahr*) is not merely a ceremonial or symbolic gift but a binding financial obligation owed by the husband to his wife. Its significance is emphasized repeatedly in the Holy Quran, which treats it as a right of the wife and a moral and legal duty of the husband. Allah the Almighty commands:

وَاٰتُوا النِّسَآءَ صَدُقٰتِهِنَّ نِحۡلَةً

"Give women ˹you wed˺ their due dowers graciously."
(Surah An-Nisa, 4:4)

"اور عورتوں کو ان کے مہر خوشدلی کے ساتھ دیا کرو۔"

Islamabad High Court, Islamabad.

9. This verse establishes two fundamental principles: first, the dower is a right vested in the wife and cannot be denied; second, it is to be given freely and honorably, underscoring the moral weight of the obligation. The Quran further clarifies that debts and obligations, including dower, must be discharged before any distribution of inheritance:

يُوۡصِيۡكُمُ اللّٰهُ فِىۡۤ اَوۡلَادِكُمۡ لِلذَّكَرِ مِثۡلُ حَظِّ الۡاُنۡثَيَيۡنِ‌ ۚ فَاِنۡ كُنَّ نِسَآءً فَوۡقَ اثۡنَتَيۡنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ‌ ۚ وَاِنۡ كَانَتۡ وَاحِدَةً فَلَهَا النِّصۡفُ‌ ؕ وَلِاَبَوَيۡهِ لِكُلِّ وَاحِدٍ مِّنۡهُمَا السُّدُسُ مِمَّا تَرَكَ اِنۡ كَانَ لَهٗ وَلَدٌ‌ ۚ فَاِنۡ لَّمۡ يَكُنۡ لَّهٗ وَلَدٌ وَّوَرِثَهٗۤ اَبَوٰهُ فَلِاُمِّهِ الثُّلُثُ‌ ؕ فَاِنۡ كَانَ لَهٗۤ اِخۡوَةٌ فَلِاُمِّهِ السُّدُسُ مِنۡۢ بَعۡدِ وَصِيَّةٍ يُّوۡصِىۡ بِهَاۤ اَوۡ دَيۡنٍ‌ ؕ اٰبَآؤُكُمۡ وَاَبۡنَآؤُكُمۡ‌ ۚ لَا تَدۡرُوۡنَ اَيُّهُمۡ اَقۡرَبُ لَـكُمۡ نَفۡعًا‌ ؕ فَرِيۡضَةً مِّنَ اللّٰهِ‌ ؕ اِنَّ اللّٰهَ كَانَ عَلِيۡمًا حَكِيۡمًا

"Concerning your children, God commands you that a son should have the equivalent share of two daughters. If there are only daughters, two or more should share two-thirds of the inheritance, if one, she should have half. Parents inherit a sixth each if the deceased leaves children; if he leaves no children and his parents are his sole heirs, his mother has a third, unless he has brothers, in which case she has a sixth. **[In all cases, the distribution comes] after payment of any bequests or debts.** You cannot know which of your parents or your children is more beneficial to you: this is a law from God, and He is all knowing, all wise."

(Surah An-Nisa, 4:11)

"اللہ تعالیٰ تمہیں وصیت کرتا ہے تمہاری اولاد کے بارے میں کہ لڑکے کے لیے حصہ ہے دو لڑکیوں کے برابر پھر اگر لڑکیاں ہی ہوں (دو یا) دو سے زیادہ تو ان کے لیے ترکے کا دو تہائی ہے

Islamabad High Court, Islamabad.

اور اگر ایک ہی لڑکی ہے تو اس کے لیے آدھا ہے اور میت کے والدین میں سے ہر ایک کے لیے چھٹا حصہ ہے جو اس نے چھوڑا اگر میت کے اولاد ہو اور اگر اس کے اولاد نہ ہو اور اس کے وارث ماں باپ ہی ہوں تو اس کی ماں کا ایک تہائی ہے پھر اگر میت کے بہن بھائی ہوں تو اس کی ماں کا چھٹا حصہ ہے **بعد اس وصیت کی تعمیل کے جو وہ کر جائے یا بعد ادائے قرض کے** تمہارے باپ اور تمہارے بیٹے تم نہیں جانتے کہ ان میں سے کون تمہارے لیے زیادہ نافع ہے یہ اللہ کی طرف سے مقرر کیا ہوا فریضہ ہے یقیناً اللہ تعالیٰ علم و حکمت والا ہے"

10. From this verse, it is evident that all debts (*dayn*), including dower, take precedence over inheritance. A widow's right to her dower is not subordinate to the claims of heirs; rather, it is treated as a priority claim on the estate, enforceable before any distribution to legal heirs. Classical Hanafi jurisprudence reinforces this, describing dower as a debt (*dayn*) that the husband or his estate must honor. *Al-Hidaya* explicitly states:

> *"…the named mahr is a debt liability. It is established with death and is to be recovered from his estate."*

11. Under classical Islamic law, the estate (*tarkah*) of a deceased person is subject to four sequential obligations, observed in a strict order. First, funeral expenses (*tajheez wa takfeen*) are paid. Second, all debts (*dayn*) of the deceased are satisfied, which include commercial liabilities, personal debts, and unpaid dower (*mahr*), including deferred dower that becomes due upon death. Third, valid bequests (*wasiyyah*) are executed up to one-third of the remaining estate. Fourth, only thereafter is the residue distributed among the legal heirs (*mirath*) according to the shares prescribed in Surah An-Nisa.

Islamabad High Court, Islamabad.

12. The Supreme Court of Pakistan in ***2020 SCMR 352 (Shabla and others Vs. Ms. Jahan Afroz Khilat and others)*** has held that no limitation runs against matters involving inheritance rights of a female where she has been defrauded of her right by her family. Dower, upon the husband's death, becomes connected with inheritance. It is a debt deducted *before* inheritance distribution. If inheritance shares (which arise *after* debt payment) are perpetual, how can dower (which has priority *over* inheritance) be time-barred after three years?

13. Islamic law prescribes no limitation period for claiming dower. The obligation remains enforceable by demand throughout the husband's lifetime and, upon his death, becomes a charge on his estate. Silence or delay by the wife does not extinguish this right unless she explicitly and voluntarily forgives it. The concept of statutory limitation barring dower claims is therefore alien to Islamic jurisprudence and represents a colonial-era imposition that must be scrutinized through the constitutional lens of Article 227.

The West Pakistan Family Courts Act, 1964 as a Special Law and the Absence of Express Limitation for Matrimonial Claims:

14. The West Pakistan Family Courts Act, 1964 is a special law enacted with the object of providing expeditious, inexpensive, and effective resolution of family disputes. The Act provides procedure for matters enumerated in Schedule I, including dissolution of

Islamabad High Court, Islamabad.

marriage, maintenance, dower, dowry, personal property and custody. By virtue of Section 5 of the Act, Family Courts are vested with exclusive jurisdiction in respect of such matters, thereby ousting the jurisdiction of ordinary civil courts.

15. It is a settled principle of statutory interpretation that where a special law occupies a particular field and provides a complete mechanism for adjudication, its provisions must prevail over general procedural laws, subject only to express incorporation, as held in ***2025 S C M R 1041 (Ahsan Ali Dawach Vs. The State through Chairman NAB and others)***. The Family Courts Act was designed not merely as an alternative legislation but as a reformative legislative measure intended to shield family litigants, particularly women and children, from the technicalities and rigidities of ordinary civil procedure. The Act empowers Family Courts to evolve their own procedure, to record evidence in a summary manner, and to decide matters on the basis of equity and substantial justice rather than strict procedural technicalities.

16. Significantly, the Act itself does not prescribe any independent limitation period for filing suits relating to maintenance, dower, or recovery of dowry articles. Nor does it contain any provision extinguishing substantive matrimonial rights on account of delay. The legislative silence regarding limitation within the Family Courts Act is not accidental. It reflects the underlying intent of the legislature to prioritize substantive justice in family matters over procedural barriers. Matrimonial disputes, by

Islamabad High Court, Islamabad.

their nature, often arise in emotionally and socially complex circumstances where immediate recourse to litigation may not be feasible, particularly for women who may be financially dependent or socially constrained. The absence of a rigid internal limitation framework within the Family Courts Act demonstrates legislative sensitivity to these realities. To impose a narrow and inflexible limitation upon the claims of dower and maintenance, while the special statute governing their adjudication remains silent on limitation, risks undermining the very object for which the Family Courts Act was enacted. Where the legislature has consciously refrained from embedding restrictive limitation provisions within the special law governing family disputes, courts must be slow to introduce procedural barriers that erode matrimonial rights recognized both under statutory law and Islamic jurisprudence.

17. Articles 103 and 104 of the Limitation Act were enacted in the pre-independence era, when no special legislation existed to safeguard the rights of Muslim women, as are presently protected under section 5 of the Muslim Family Laws Act, 1964. The Limitation Act is a general law applicable to all kinds of civil proceedings and does not specifically address special enactments such as the Muslim Family Laws Act, 1964. After the creation of Pakistan in 1947, Articles 103 and 104 continued to remain operative without due consideration of the mandate of the Muslim Family Laws Act, 1964. Therefore, the Courts are not bound to apply Articles 103 and 104 in proceedings before the Family Court. These

Islamabad High Court, Islamabad.

provisions may be invoked where the subject matter is assailed before a Civil Court within the ambit of section 9 of the Code of Civil Procedure, 1908; however, that is not the case here.

Analysis of Article 104 of the Limitation Act, 1908:

18. The controversy before this Court necessitates a close examination of Articles 103 and 104 of the Limitation Act, 1908. These provisions are available in the First Schedule to the Act and specifically deal with suits relating to dower under Muslim law. For clarity, the relevant provisions are reproduced below:

Description of suit.	**Period of limitation.**	**Time from which period beings to run.**
103.— By a [Muslim] for exigible dower (mu'ajjal)	[Three years]	When the dower is demanded and refused or where, during the continuance of the marriage no such demand has been made, when the marriage is dissolved by death or divorce
104.— By a [Muslim] for deferred dower (mu'wajjal).	[Three years]	When the marriage is dissolved by death or divorce

19. A plain reading of Articles 103 and 104 of the Limitation Act, 1908 reveals that Article 103 is the general provision governing suits for dower, whether prompt or deferred. Article 103 contemplates two situations: first, where prompt dower is demanded during marriage and refused; and second, where no demand has been made during the subsistence of marriage, in which case limitation commences upon dissolution, whether by divorce or death. Article

Islamabad High Court, Islamabad.

104, on the other hand, specifically addresses suits for dower where the marriage is dissolved by death or divorce and prescribes limitation from the date of such dissolution.

20. The Limitation Act, 1908 was enacted by the Imperial Legislative Council during British rule in India. It replaced earlier limitation statutes (notably the Limitation Acts of 1859, 1871 and 1877). The object of these enactments, as reflected in legislative history was to create a uniform and systematic scheme of limitation applicable to all civil suits, regardless of whether the underlying right arose under contract, tort, property law, or personal law.

21. Muslim jurisprudence did not prescribe a fixed statutory limitation period for enforcement of dower, rather it treated dower as a continuing debt recoverable from the husband or his estate. The introduction of Articles 103 and 104 marked a departure from Islamic jurisprudence by subjecting dower claims to statutory time-bars.

22. Article 103 of the Limitation Act, 1908 addresses suits for dower generally, whereas Article 104 is triggered specifically upon dissolution of marriage. The latter provision assumes that upon dissolution, the dower becomes payable in full if it was deferred. However, difficulty arises where deferred dower becomes payable upon death and is recoverable exclusively from the estate. In such a case, the widow is not merely a contracting party enforcing a debt, she stands in the position of a creditor of the estate. Under general civil law, debts of a deceased person are recoverable from the estate

Islamabad High Court, Islamabad.

prior to distribution among heirs. Ordinarily, heirs take their share subject to payment of liabilities from the estate left by the deceased.

23. Deferred dower, upon death, assumes the character of a debt against the estate. It is not a collateral claim but a superior financial obligation that must be satisfied before heirs acquire their shares. If Article 104 is interpreted to bar recovery of deferred dower after three years from the husband's death, the inevitable consequence is that heirs may permanently retain estate property burdened with an unpaid Quranic debt. Such a result reverses the divinely ordained order of succession and effectively nullifies a right expressly protected by Islamic law.

24. In ***AIR 1916 PC 46 (Hamira Bibi and Others Vs. Zubaida Bibi and Others)***, the Court observed that even after the death of the husband, the wife has the right to claim her Mehr or 'dower-debt' from her husband's property. This view was reiterated in the case of ***AIR 1938 PC 80 (Syed Sabir Husain Vs. S. Farzand Hasan)***, where it was observed that the Dower or Mehr is an essential part of the status of marriage under Muslim law. It is an amount agreed upon prior to the marriage and even after the death of the wife, her legal heirs can claim the same from her husband. It is the obligation of the husband to pay Mehr to the wife, or her heirs in her absence.

25. In post-independence Pakistan, the constitutional framework has transformed. Article 227 mandates conformity of laws with the injunctions of Islam. The Family Courts Act, 1964 has further established a special procedural regime for matrimonial disputes.

Islamabad High Court, Islamabad.

Therefore, Articles 103 and 104 must now be read not in isolation as colonial relics, but in harmony with constitutional mandates and Islamic jurisprudential principles.

26. A statutory provision introduced for procedural certainty cannot be interpreted in a manner that nullifies a debt which Islamic law treats as sacred and paid prior to inheritance. The true legislative intent behind limitation law is to prevent stale litigation, not to authorize unjust enrichment at the expense of a widow's Quranically guaranteed right.

27. The Supreme Court of Pakistan has repeatedly held that statutes must be interpreted, where two constructions are possible, in a manner consistent with constitutional principles and Islamic injunctions, as held in ***1992 SCMR 2192 (The State Vs. Syed Qaim Ali Shah)***. The doctrine of harmonious construction obliges courts to avoid interpretations that render a statutory provision unconstitutional or repugnant to Islamic law, if a reasonable alternative interpretation is available.

28. In the present context, such harmonious interpretation is achievable. Articles 103 and 104 can be understood as procedural regulations governing the filing of suits, but not as provisions extinguishing the underlying debt of dower, particularly where that debt is integrally linked to estate administration. Where the estate remains undistributed or where heirs have taken subject to outstanding liabilities, the widow's claim retains its character as a creditor's demand against the estate.

Islamabad High Court, Islamabad.

29. This Court is of the considered view that limitation, being a procedural device, cannot curtail, dilute, or extinguish a substantive right conferred by Islamic law and constitutionally protected. A widow's right to deferred dower is not merely contractual but a sacred financial entitlement rooted in divine command. To subject it to extinction by lapse of three years is to reduce a Quranic obligation to a civil claim. By barring a dower claim after three years, Article 104 effectively extinguishes a debt that the Qur'an treats as a continuing obligation. This directly contradicts the Quranic priority of debt settlement before inheritance distribution. If a widow cannot claim her dower after three years, the estate is distributed to heirs without satisfying what Allah (SWT) has designated as a prerequisite.

Applicability of Section 14 of the Limitation Act:

30. Even if Article 104 were to be applied, the peculiar facts of the present case unmistakably attract Section 14 of the Limitation Act, 1908. The Petitioner, immediately after the death of her husband, instituted civil proceedings seeking declaration on the basis of a Gift Deed executed in lieu of dower. Throughout those proceedings, the foundational claim remained enforcement of her matrimonial financial entitlement. The Civil Court, though competent to examine title, lacked jurisdiction to adjudicate the substantive claim of dower, which falls exclusively within the domain of the Family Court under Section 5 of the West Pakistan Family Courts Act, 1964. The proceedings were prosecuted with due diligence and good faith

Islamabad High Court, Islamabad.

and were dismissed on technical evidentiary grounds rather than on adjudication of dower entitlement. Section 14, being a beneficial and remedial provision, mandates exclusion of time spent bona fide before a forum unable to grant effective relief, as held in ***2025 C L D 680 [SC] (Secretary To Government Of Khyber Pakhtunkhwa Communication And Works Department, Peshawar And Others Vs. Messrs Parcon Associate Government Contractors through Muhammad Haroon and others)***. To deny its application in such circumstances would be contrary to settled principles of justice.

Comparative and International Jurisprudence:

31. Comparative jurisprudence further supports the view that dower is treated as a continuing obligation rather than a time-extinguishable claim. In several Muslim-majority jurisdictions, including Egypt, Jordan, Malaysia, and Indonesia, dower is recognized as a debt recoverable from the husband or his estate without rigid statutory restriction of lapse of time. Even in India, certain High Courts have interpreted limitation provisions in harmony with Muslim personal law to ensure that dower claims are not defeated by technicality. Allahabad High Court, in the case of ***AIR 1979 All 374 (Ahmadi Bibi Vs. Mohammad Mabood)*** held that a Muslim wife's claim for dower is not subject to any limitation period.

32. Pakistan is also a State Party to the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**, having ratified the same in 1996. Under Article 2 of

Islamabad High Court, Islamabad.

CEDAW, State Parties undertake to pursue, by all appropriate means, a policy of eliminating discrimination against women, including the obligation to adopt legislative measures and to modify or repeal existing laws, regulations, customs and practices which constitute discrimination. Article 13 further obligates States to eliminate discrimination against women in matters relating to economic and social life, ensuring equal rights to financial benefits and economic opportunities. More specifically, Article 16 mandates equality of rights and responsibilities during marriage and at its dissolution, including equal rights in respect of ownership, acquisition, management, administration and disposition of property. It is a settled principle that, where possible, municipal law should be interpreted in a manner consistent with international obligations undertaken by the State. In this backdrop, a legal framework that extinguishes a widow's dower, an acknowledged financial entitlement, through rigid procedural limitation risks impairing not only Islamic principles of justice but also Pakistan's international commitments to safeguard women's economic rights upon dissolution of marriage.

Guiding Principles:

33. The instant judgment revolves around the following guiding principles:

i. *The Limitation Act, 1908, or any procedural statute, cannot bypass, restrict, curtail, or extinguish rights explicitly confirmed by the*

Islamabad High Court, Islamabad.

Holy Qur'an and Sunnah. Where a conflict arises, Islamic injunctions, as mandated by Article 227 of the Constitution, must prevail.

ii. *In matters of family rights, particularly those flowing from Nikah, the Quran and Sunnah constitute the supreme normative framework. Courts are constitutionally obligated to interpret statutory provisions in harmony with Quran and Sunnah.*

iii. *A wife's right to claim dower (Haq Mehr) is an absolute, fundamental, and inalienable right arising from the Nikah contract and ordained by divine commandment. This right cannot be extinguished by mere passage of time. Once deferred dower becomes due upon death, it assumes the character of a debt against the estate and cannot be extinguished by mechanical application of Articles 103 and 104 of the Limitation Act. These provisions, to the extent they restrict enforcement of deferred dower upon death, require legislative re-evaluation and amendment by Parliament to bring them in conformity with Islamic injunctions.*

iv. *In matters involving rights of women, particularly widows, courts must adopt a liberal and justice-oriented approach toward condonation of delay. Technical knockouts cannot be permitted to defeat substantive matrimonial rights.*

34. In view of the above contentions and the principles settled by this Court, the instant writ petition is **ALLOWED**. The impugned judgment and decree dated 01.11.2024 and 26.03.2025 are hereby

Islamabad High Court, Islamabad.

SET ASIDE. The matter is **REMANDED** to the learned Judge, Family Court, with direction to proceed in accordance with law and to adjudicate upon the rights of the petitioner on merits, without being influenced by the earlier findings regarding limitation, within period of four months from the date of receipt of a certified copy of this judgment.

35. Before parting with this judgment, it is observed that the issues raised in the present case highlight the need for legislative reconsideration of Articles 103 and 104 of the Limitation Act, 1908 in light of Article 227 of the Constitution and the evolving constitutional commitment to protection of women's financial rights. Let a copy of this judgment be forwarded to the **Law and Justice Commission of Pakistan** for consideration of appropriate legislative reform.

36. Further, in view of the mandate of the National Commission on the Status of Women Act, 2012, particularly Section 11, which empowers the Commission to "*examine the policy, programs and other measures taken by the Federal Government for gender equality, women's empowerment, political participation and representation, assess implementation and make suitable recommendations to the concerned authorities; review all Federal laws, rules and regulations affecting the status and rights of women and suggest repeal, amendment or new legislation essential to eliminate discrimination, safeguard and promote the interest of women and achieve gender equality before law in accordance with the Constitution and obligations under international*

Islamabad High Court, Islamabad.

covenants and commitments" a copy of this judgment shall be transmitted to the **National Commission on the Status of Women (NCSW)**. The Commission is thereby empowered to make recommendations and take such action as it may deem appropriate within its statutory domain, including advising the Federal Government or other authorities for implementation or reform, so as to advance the cause of gender equality and the protection of women's rights.

(MOHSIN AKHTAR KAYANI)
JUDGE

Announced in the open court on: **17.02.2026**

Approved for reporting.

A.Waheed/-

Islamabad High Court, Islamabad.