ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT

W.P.No.1482 of 2016
Raja Asad Ali
Versus.
Mst. Safdar Asad, etc.

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	25.04.2016	Raja Basharat Hussain Abbasi, Advocate for the petitioner.

Through the instant writ petition, the petitioner, Raja Asad Ali, impugns the order dated 12.04.2016, passed by the learned Judge, Family Court (East), Islamabad, dismissing the petitioner's application for the dismissal of the suit instituted by respondent No.1 for the dissolution of marriage on the basis of *khula*.

The record reveals that on 11.09.2015, respondent No.1 had filed a suit against the petitioner for the dissolution of marriage on the basis of *khula* before the learned Judge, Family Court (West), Islamabad. Thereafter, the petitioner and respondent No.1 resolved their differences, and the said suit was dismissed as withdrawn on 27.10.2015. Apparently, differences again developed between the couple. Consequently respondent No.1, on 27.01.2016 filed another suit against the petitioner for dissolution of marriage on the basis of *khula* before the learned Judge, Family Court (East), Islamabad. The petitioner filed an application for the dismissal of the suit by asserting that the learned Judge, Family Court (East), Islamabad, did not have territorial jurisdiction to adjudicate upon the matter. Vide order dated 12.04.2016, the learned Judge, Family Court, dismissed the said application. Thereafter, the petitioner filed an application for the review of the order dated 12.04.2016 and for the appointment of a local

commission in order to ascertain the residence of respondent No.1. This application was also dismissed by the learned Judge, Family Court vide order dated 18.04.2016. The said orders dated 12.04.2016 and 18.04.2016 have been impugned by the petitioner in the instant petition.

Learned counsel for the petitioner submitted that the address given by respondent No.1 in the suit for the dissolution of marriage is not correct and that the learned Judge, Family Court (East), did not have the territorial jurisdiction to adjudicate upon the suit.

In making his submissions, the learned counsel for the petitioner placed reliance on the cases of ***Basharat Hussain Vs. Mst. Amna Hussain (2004 YLR 2446) and Syed Zia ul Hassan Gilani Vs. Mian Khadim Hussain (PLD 2001 Lahore 188).***

I have heard the learned counsel for the petitioner and perused the record with his able assistance. In the first suit instituted by respondent No.1, her address was mentioned as House No.1331, Street No.32, Sector G-11/2, Islamabad, whereas in the second suit instituted by respondent No.1 her address is House No.1140, Street No.17, Phase-I, Frash Town, Islamabad. It is an admitted position that respondent No.1's address in the second suit is within the territorial jurisdiction of the learned Judge, Family Court (East), Islamabad. The mere fact that respondent No.1 had filed the earlier suit before the learned Judge, Family Court (West), Islamabad does not in any manner, prevent her from changing her residence and suing in the court which has territorial jurisdiction over the place where she has moved her residence.

The law is well settled that a suit for dissolution of marriage can be filed within the local limits where the wife ordinarily resides.

Courts give due weight and benefit to the convenience of the ladies. Cases instituted by husbands or former husbands are transferred to the courts where the wives or former wives reside. In family matters the convenience of the female litigant has to be kept in view. Reference in this regard may be made to the law laid down in the cases of Mst. Fozia Vs. Aziz Ullah (2010 CLC 403), Shaheen Vs. Muhammad Ali (2006 YLR 59), Lakhi Vs. Member (Colonies) Board of Revenue, Punjab (2005 MLD 1994).

Rule 6 of the West Pakistan Family court Rules 1965, reads as follows:-

> *"The Court which shall have jurisdiction to try a suit will be that within the local limits of which:*
> *a) the cause of action wholly or in part has arisen or*
> *b) where the parties reside or last resided together:*
>
> *Provided that in suits for dissolution of marriage or dower, the Court within the local limits of which the wife ordinarily resides shall also have jurisdiction."*
> (Emphasis added)

The provisio to the above referred Rule 6 is limited to suits for dissolution of marriage or recovery of dower and enables the estranged wife to file a family suit in a court within the local limit in which she ordinarily resides.

The learned counsel for the petitioner was not able to point out any prejudice that would be caused to the petitioner, if the suit instituted by respondent No.1 was to proceed before the learned Judge, Family Court (East), Islamabad.

For the foregoing reason, the instant petition, being devoid of merit, is dismissed in *limine* with no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Sultan*

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