

HIGH COURT OF AZAD JAMMU & KASHMIR

Family Appeal No. 119/2025.
Date of institution 05.04.2025.
Date of decision 11.11.2025.

Nayyar Iqbal Vs. Nayiat Bibi

(Appellant) (Respondent)

FAMILY APPEAL

Before:- Justice Syed Shahid Bahar, J.

PRESENT:

Shahid Iqbal Chak, Advocate for the Appellant.
Sh. Mohammad Saleem, Advocate for the Respondent.

ORDER:

Misalliance and unhappy breakup regarding marital ties is a common phenomenon. Family laws governing the family disputes are abundantly clear that in case of demand of dissolution on part of the wife on the basis of “Khulla”, she has to waive, quit and return back the husband whatever given by him. Suit filed by the respondent/wife is for dissolution of marriage on the basis of “Khulla” and in para No.7 of the suit, she has disclosed in clear cut ways infra:-

”مدعا علیہ نے مدعیہ کی زندگی اجیرن کر رکھی ہے۔ مدعیہ کو مدعا علیہ سے شدید نفرت ہو گئی ہے۔“

Words shows that this misalliance of spouses cannot sustain at all.

After perusal of the record it transpires that despite pendency of the civil suit pertaining to the validity of the gift deed which is a tug of war between the parties, the learned Judge Family Court Muzaffarabad by embarking upon the civil dispute has given a verdict relating to the validity of the gift deed ex-facie executed in

favour of Nayiat Bibi, respondent, herein, which is neither within the province of the Family Court Muzaffarabad nor permissible without giving opportunity of recording evidence to the parties pertaining to the matter, particularly, when the document referred i.e. registered gift deed is yet in field.

As the respondent is asking for dissolution of marriage on the basis of “Khulla” by filing a suit, thus, in such like eventuality, factum of alleged gift deed in shape of land/house carries pivotal importance, so, rejection of the stance of appellant at earlier stage without providing him opportunity to lead evidence on this point, particularly when the gift deed is a registered document and an admitted instrument, as the counsel of the respondent in the open Court stated at bar that gift deed was made by the appellant in favour of the respondent/wife. Seemingly this aspect remained unattended by the trial Court.

Family laws acquires status of a special law which is not bounded by technical shackles of general law, that too the same prevail over the general law in a way to takes its own course pertaining to the matter coming within the province and jurisdictional spheres of the Family Court. Order impugned is faulty, hence, not sustainable.

Leaving aside the ultimate fate of the gift deed which is yet to be adjudicated by the civil Court, as the same is holding in the field, thus, the learned Family Court seized with the matter must have to decide the case on the basis of documentary evidence

produced by the parties. The appellant Nayyar Iqbal is at liberty to produce oral as well as documentary evidence pertaining to the gift deed before the trial Court. Therefore, with consent of both the learned counsel for the parties, the instant appeal is hereby accepted and the impugned order dated 08.03.2025 is hereby set-aside.

The instant appeal is disposed of in the above indicated manner, however, the learned Family Court is directed to expedite the matter and dispose of the lis within prescribed period of limitation given in the relevant statute.

Announced.

Muzaffarabad.

11.11.2025 (Saleem)

JUDGE