

**IN THE COURT OF LUBNA ZAMAN
ADDITIONAL DISTRICT JUDGE-VI, MARDAN**

Appeal No.127/FCA of 2024

Date of Institution: 18.11.2024

Date of decision: 30.01.2025

Mst.Robina Begum wife of Baroz Khan daughter of Muhammad Ishaq r/o Labor Colony near Mardan Sugar Mills, District Mardan.
... (**Appellant**)

V E R S U S

Baroz Khan son of Sherin Khan r/o Katlang Bazaar Tehsil Katlang District Mardan.
.....(**Respondent**)

JUDGMENT

1. Appellant has preferred this appeal against the order dated 28.10.2024 of the learned Senior Civil Judge (Family) Mardan.
2. Facts of the case are that the appellant filed a family suit against the respondent for seeking recovery of her unpaid dower consisting of land measuring 03 kanal 05 marla 136 square feet, situated in khata No.445/455/1271, khasra No.2501 and 2500 and khata No.446/456, khasra Nos.2506 to 2508 and 2504 situated at moza Katlang District Mardan (hereinafter referred as disputed property) alleging that her marriage was solemnized with respondent in 1992 but the respondent has refused a month prior to the institution of the suit to pay the outstanding dower amount. The appellant has alleged that the respondent is reluctant to sell the land to a 3rd party, which compelled her to file the instant suit.

3. The respondent was summoned and he contested the suit by filing written statement wherein in para No.5 of the preliminary objections he has admitted that the disputed property was given to the appellant in lieu of dower but she has waived off the dower amount in 2020.
4. In the course of proceedings, the parties effected compromise and as a result the respondent appeared before the court and recorded statement that he has got no objection if decree is granted in favor of the appellant. The learned Senior Civil Judge (Family) Mardan after recording the joint statement of the attorney for the appellant and respondent dismissed the suit vide order dated 28.10.2024.
5. Feeling aggrieved the appellant has challenged the impugned order dated 28.10.2024 on the ground that the respondent has submitted cognovit and recorded statement in favor of the appellant but the learned Senior Civil Judge (Family) Mardan has dismissed the suit without any valid reason and requested that the impugned order dated 28.10.2024 may graciously be set aside.
6. Arguments heard and record perused.
7. Perusal of case record would show that the appellant has alleged in the plaint that the disputed property was given to her in lieu of dower. The respondent in the written statement has not denied the contention of the appellant but

has mentioned that she has waived off her dower amount in 2020; however, in the course of trial, the respondent appeared in person and submitted compromise deed (EX.PA) wherein he has undertaken that he would transfer the disputed property in favor of appellant within two months from the date of execution of compromise deed.

8. In the wake of compromise deed (EX.PA), joint statement for the attorney of appellant and respondent was recorded which is a reflection of compromise deed (EX.PA). Fard Jamabandi for the year 2023-2024 (EX.PB) was also produced which shows that the respondent is recorded as owner of disputed property; meaning thereby that the disputed property is the ownership of the respondent. The copy of CNIC of the parties was duly exhibited and the respondent has expressed no objection if decree is granted in favor of the appellant as per terms and conditions of compromise deed (EX.PA) whereas the joint statement is duly signed by the attorney for the appellant and respondent.

9. It is clear from the above discussion that the title of the property is not disputed; meaning thereby that the respondent is the original owner of the disputed property. Likewise, the respondent has admitted that the appellant is his wife, and he has transferred the disputed property to her in lieu of dower. The respondent was summoned in the course of appeal but he did not contest the appeal which

show that he is genuinely interested to mutate the disputed property in favor of his wife.

10. There is nothing on record to show that in case of transfer of disputed property in favor of the appellant, the rights of the 3rd party would be affected. So far as the period of limitation is concerned; according to Article 103 of the Limitation Act, 1908, the period of limitation for seeking recovery of unpaid dower is three years from the date when the dower is demanded and refused. In the instant case the denial of the respondent to mutate the disputed property in favor of the appellant is evident because in the written statement he has mentioned that she has waived of her dower which is pointing to the fact that he was not interested to mutate the disputed property in favor of the appellant and kept her in the dark; hence, the limitation would be computed from the date of his denial, therefore, the suit is well within time. Even otherwise the *pardanasheen* ladies have little knowledge regarding the technicalities of law and social taboos also bar them from approaching the courts of law for their rights.

11. For reasons given above coupled with the joint statement of the parties recorded before the learned Senior Civil Judge (Family) Mardan a decree for recovery of dower amount as prayed for in the plaint is granted in favor of the appellant. Consequent upon the acceptance of appeal the

impugned order dated 28.10.2024 is set aside. Cost shall follow the events.

12. Requisitioned record be returned to the quarter concerned alongwith copy of this judgment and file of this court be consigned to record room after its necessary completion and compilation.

Announced
30.01.2025

(Lubna Zaman)
Additional District Judge-VI,
Mardan

C E R T I F I C A T E

Certified that this judgment consists of (05) pages. Each page has been read, corrected wherever necessary and signed by me.

(Lubna Zaman)
Additional District Judge-VI,
Mardan