

Supreme Court: Wife Cannot Retain Dower After Khula if Cruelty Is Not Proved

In *Wajiha Rasheed v Adeel Akhter*, the Supreme Court held that a later dissolution decree requiring restoration of dower could make an earlier decree for dower property unserviceable where cruelty was not proved.

Supreme Court of Pakistan family-law judgment commentary
Published 16 September 2026 | Shahbaz Shah, Advocate High Court

Cases: C.P.L.A. Nos. 2555 and 2556 of 2022

Citation: 2025 SCP 316

Court: Supreme Court of Pakistan, Appellate Jurisdiction

Bench: Chief Justice Yahya Afridi, Justice Muhammad Shafi Siddiqui and Justice Miangul Hassan Aurangzeb

Result: Leave declined; both petitions dismissed

The ruling in one sentence

The Supreme Court of Pakistan held that where a marriage was dissolved under the proviso to section 10 of the Family Courts Act, 1964 and the wife failed to prove the cruelty alleged against her husband, she could not retain the dower; the later final determination on dissolution and dower could therefore render an earlier decree concerning dower property obsolete or unserviceable.

The ruling is *Wajiha Rasheed v Adeel Akhter and others*, reported as 2025 SCP 316, arising from C.P.L.A. Nos. 2555 and 2556 of 2022. The three-member bench comprised Chief Justice Yahya Afridi, Justice Muhammad Shafi Siddiqui and Justice Miangul Hassan Aurangzeb. Justice Miangul Hassan Aurangzeb authored the judgment. The supplied copy records the hearing on 27 August 2025 and is approved for reporting, but its announcement-date line is blank.

The dower and the disputed plot

The judgment records that *Wajiha Rasheed* and *Adeel Akhter* married in 2001 and that *Rukhsati* took place on 28 June 2004. The dower stated in the *Nikahnama* consisted of Rs. 1,000,000 payable on demand and Plot No. 6, Sector-D, Ghazikot Township, Mansehra.

The husband's father sold Plot No. 6 to *Riaz Ahmed*. The wife then instituted Suit No. 216/FC of 2010 seeking a declaration, injunction and possession on the basis that the plot formed part of her dower. The Family Court decreed that suit on 18 October 2011, while the marriage was still intact. The husband's appeal was dismissed on 9 June 2012, and he challenged those concurrent decrees before the Lahore High Court, Rawalpindi Bench, in W.P. No. 548-A of 2012.

The sequence matters. The decree concerning the plot came before the later adjudication of the parties' dissolution and the wife's entitlement to retain dower.

The later dissolution proceedings

On 1 February 2012, the wife filed Family Suit No. 45 of 2012 for dissolution of marriage, maintenance, dower and dowry articles. On 9 October 2012, she stated that reconciliation was not possible, that she had developed hatred and aversion toward the husband, that her dower had not been paid and that she did not intend to relinquish it.

The Family Court dissolved the marriage by order dated 8 November 2012 and continued with the remaining

issues. The order did not use the word Khula, but expressly dissolved the marriage under the proviso to section 10 of the Family Courts Act, 1964.

After trial, the Family Court held on 6 November 2014 that the wife had not proved cruelty or brutality by the husband. It awarded her the dowry articles or their depreciated value of Rs. 200,000 and maintenance of Rs. 20,000 per month for the three-month Iddat period. It rejected her claims for gold ornaments and dower. Her appeal was dismissed on 1 March 2016, after which she filed W.P. No. 1007 of 2016.

What the Lahore High Court decided

The Lahore High Court decided both writ petitions through separate judgments dated 17 March 2022.

It did not interfere with the concurrent findings in the dissolution suit. In the husband's petition concerning Plot No. 6, however, it held that the wife was not entitled to retain the dower after dissolution through Khula and set aside the earlier decrees recognizing her ownership of the plot.

The High Court also declined to apply the 2015 amendments to section 10(5) and (6) retrospectively because the dissolution order had been made in 2012. The Supreme Court agreed with that temporal approach.

Why the absence of the word Khula was not decisive

The Supreme Court examined the legal basis of the dissolution rather than treating the label alone as controlling. Although the Family Court's order dated 8 November 2012 did not expressly use the word Khula, it invoked the proviso to section 10 of the Family Courts Act as it then applied.

That proviso required the Family Court, after failure of reconciliation, to dissolve the marriage and restore to the husband the Haq Mahr received by the wife in consideration of marriage. No immediate direction about return of dower was made in the dissolution order because the wife's allegation of cruelty still required adjudication through evidence.

Once the Family Court and the appellate court concluded that cruelty had not been proved, the Supreme Court held that the wife became liable to restore the dower. Had cruelty or brutality been proved, the result would have been different and she would have been entitled to retain it.

Why the earlier plot decree did not remain decisive

The central difficulty was that the wife already held an earlier decree declaring her ownership of Plot No. 6 on the basis of the Nikahnama. The Supreme Court did not ignore that decree. It held that the later final adjudication in the dissolution proceedings had a profound legal effect on it.

The wife's earlier entitlement to the plot rested on its status as dower. Her later right to retain that dower depended on whether the marriage had ended for a fault attributable to the husband or on the statutory consequences of the dissolution actually granted. When cruelty was not proved and restoration of dower followed, the foundation for retaining the plot ceased to operate.

The Court therefore agreed that the later decree could be considered even though it arose after the original plot suit. It described the earlier decree as having become obsolete or unserviceable after the final outcome of the dissolution proceedings.

Courts may consider subsequent events

The judgment applies the settled principle that a court may take account of events occurring after institution of proceedings when those events materially affect the relief.

It referred to:

- Mst. Amina Begum v Mehar Ghulam Dastgir, PLD 1978 SC 220;
- Muhammadi v Ghulam Nabi, 2007 SCMR 761;
- Khushi Muhammad v Abdul Ghafoor, 2006 SCMR 839; and
- Evacuee Trust Property Board v Sakina Bibi, 2007 SCMR 262.

The later event was not merely collateral. It determined whether the wife was legally entitled to keep the very property that the earlier decree had recognized as dower. Treating the two proceedings in isolation would have produced inconsistent and practically irreconcilable results.

The Court's reliance on Muhammad Arif v Saima Noreen

The Supreme Court also referred to Muhammad Arif v Saima Noreen, 2015 SCMR 804. That authority held that where cruelty is not proved, dissolution cannot be granted on the statutory ground of cruelty merely because the marriage cannot continue. If the marriage is instead dissolved through Khula, the financial consequence concerning dower follows under the applicable law.

In Wajiha Rasheed, this authority supported the distinction between a fault-based dissolution, in which proved misconduct may allow the wife to retain dower, and Khula where fault has not been established.

Why the 2015 Punjab amendment did not assist the wife

The wife argued that even if she had to return dower, the limits introduced through the Punjab Family Courts (Amendment) Act, 2015 should apply. Those amendments addressed the proportion of deferred or prompt dower to be surrendered in dissolution through Khula and the payment of outstanding deferred dower.

The Court rejected retrospective application. The dissolution order was made in 2012, before the 2015 amendment. The judgment therefore applied the law governing the proceeding at the relevant time rather than later statutory percentages.

This part of the ruling is important in older family cases. Counsel should identify the date of dissolution and the version of section 10 then in force before calculating the financial consequences of Khula.

The final order

The Supreme Court found no legal infirmity in the Lahore High Court judgments dated 17 March 2022. It declined leave to appeal and dismissed both petitions.

The practical result was:

- the High Court's interference with the earlier decree concerning Plot No. 6 remained intact;
- the finding that the wife had not proved cruelty remained undisturbed;
- the wife was not entitled to retain the plot as dower;
- the awards of dowry articles or Rs. 200,000 and Iddat maintenance of Rs. 20,000 per month for three months remained unaffected; and
- the 2015 Punjab amendment was not applied retrospectively to the 2012 dissolution.

What the judgment means for practitioners

Family-law counsel should map every connected proceeding before advising on dower. A decree obtained while a marriage is intact may be affected by a later final decision about dissolution, cruelty and restoration of dower. Case chronology is therefore not background detail; it can determine whether an earlier decree remains enforceable.

A party alleging cruelty must also understand its evidentiary significance. In this case, the failed cruelty allegation did not merely affect the ground of dissolution. It directly affected the wife's ability to retain valuable dower property.

Counsel should separately identify:

- the form of dissolution actually granted;
- whether the wife expressly sought or accepted Khula;
- the statutory provision and provincial version in force on the date of dissolution;
- whether cruelty or another fault-based ground was proved;
- whether dower had already been received or decreed in money or property; and
- whether later proceedings have changed the legal basis of an earlier decree.

Limits of the ruling

The judgment should not be reduced to the proposition that every unsuccessful cruelty claim automatically forfeits dower. Its holding arose from a specific procedural record: the wife stated that reconciliation was impossible and that she had developed hatred and aversion, the marriage was dissolved under the proviso to section 10, cruelty was later rejected after evidence, and the decree rejecting dower attained finality through the appellate and constitutional stages.

The case also did not decide whether a Family Court may impose Khula without a wife's informed and voluntary election in a differently framed proceeding. That question was not the issue addressed in these petitions. Later authorities concerning consent to Khula must therefore be read alongside, rather than displaced by, this decision.

Finally, the ruling does not authorize collateral disregard of every earlier decree. The subsequent event must have a direct and material bearing on the legal basis of the earlier relief. Here, both decrees concerned the same dower entitlement and could not operate consistently after the final finding that the wife had to restore dower.

This commentary is independent legal analysis for research and general information. The judgment, current statutory text, provincial amendments, pleadings and later case law should be checked before reliance in proceedings.