

LHC: Wife's Ordinary Residence Can Give Family Court Territorial Jurisdiction

The Lahore High Court held that a wife's ordinary residence is not confined to permanent residence and restored a Family Court decree from Jahanian.

Lahore High Court family-law judgment analysis
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Case: W.P. No. 6627 of 2023

Court and date: Lahore High Court, Multan Bench | 11 September 2026

Bench: Justice Muhammad Sajid Mehmood Sethi

Result: Petition allowed; appellate judgment set aside; Family Court decree restored

The ruling in one sentence

The Lahore High Court, Multan Bench, has held that the expression ordinarily resides in Rule 6 of the West Pakistan Family Courts Rules, 1965 is not limited to permanent or long-standing residence. A Family Court must examine where an estranged wife has actually chosen to stay in the circumstances of the matrimonial dispute, and cannot decide territorial jurisdiction mechanically from one isolated address mentioned in cross-examination.

In Shagufta Bibi v Additional District Judge, Jahanian and others, W.P. No. 6627 of 2023, Justice Muhammad Sajid Mehmood Sethi set aside the appellate judgment dated 15 March 2023 and restored the judgment and decree of the Judge Family Court, Jahanian, dated 21 December 2022. The decision was approved for reporting.

How the dispute reached the High Court

Shagufta Bibi instituted a composite family suit seeking dissolution of marriage through Khula, maintenance, recovery of dowry articles or their alternate value, and reimbursement of treatment expenses. The marriage had been solemnized on 13 March 2015.

Reconciliation failed and the marriage was dissolved through Khula. The Family Court then decided the remaining claims. It dismissed the claims for past maintenance and treatment expenses, but awarded Rs. 15,000 as lump-sum Iddat maintenance and Rs. 150,000 as the alternate value of dowry articles.

The husband, respondent No. 3, appealed. The Additional District Judge did not decide whether the monetary and property findings were correct on their merits. Instead, the appellate court relied principally on a statement attributed to the wife in cross-examination that she was residing at Chak No. 158/WB, Tehsil Mailsi, District Vehari. It held that the Family Court at Jahanian lacked territorial jurisdiction, set aside the entire judgment and decree, and dismissed the suit.

The wife challenged that result under Article 199 of the Constitution.

The governing law on Family Court jurisdiction

Section 5 of the Family Courts Act, 1964 gives Family Courts exclusive jurisdiction over the matters listed in Part I of the Schedule, including dissolution of marriage, maintenance, and dowry.

Rule 6 of the West Pakistan Family Courts Rules, 1965 identifies the territorial forum. Jurisdiction may arise where the cause of action wholly or partly arose, or where the parties reside or last resided together. Its proviso additionally gives jurisdiction in a suit for dissolution of marriage or dower to the Family Court

within whose local limits the wife ordinarily resides.

The Court read these provisions in light of the Family Courts Act's purpose: the expeditious settlement of disputes concerning marriage and family affairs. Relying on *Mst. Yasmeen Bibi v Muhammad Ghazanfar Khan and others* (PLD 2016 Supreme Court 613), the judgment stressed that connected matrimonial disputes should be dealt with in a specialized forum without prolonged and fragmented litigation.

Ordinary residence is not permanent residence

The central clarification concerns the meaning of ordinary residence. The High Court held that it is not synonymous with permanent residence. The expression was deliberately used to provide an accessible forum to a wife after separation.

The judgment referred to *Khurram Shehzad v Additional District Judge, Gujranwala and others* (2017 MLD 580), where the Court held that even a short stay may suffice and that the inquiry concerns the place where the wife has chosen to stay. Permanent status, property ownership, or residence for a long period is not decisive.

It also relied on *Zahid Hussain v Mst. Farhana* (2019 MLD 720), *Muhammad Muneeb Arshad through Special Attorney v Mst. Ammara Mahroof and 2 others* (2026 YLR 1121), and *Sohail Ahmed v Mst. Samreena Rasheed Memon and another* (2024 SCMR 634). Together, these authorities recognize ordinary residence as usual, settled, customary, or reasonable residence, without imposing a fixed minimum duration.

This does not mean that a wife may select any court merely by assertion. Ordinary residence remains a fact to be proved from the evidence and circumstances. The point is that the legal test is practical residence, not permanent domicile.

Why one address in cross-examination was insufficient

The wife's case was that, after separation, she resided with her father at Chak No. 119/10-R. Her father appeared as PW-2 and supported that position.

The appellate court did not reconcile this evidence with the reference to Chak No. 158/WB. It did not explain why that reference necessarily established the wife's ordinary residence for Rule 6. It instead isolated one statement and treated it as conclusive.

The High Court held that this selective approach amounted to misreading and non-reading of material evidence. The complete record had to be assessed to determine where the wife ordinarily resided at the relevant time. A mentioned address, standing alone, could not displace the rest of the residence evidence without a reasoned evaluation.

Khula and connected financial claims belonged together

The suit was principally one for dissolution of marriage through Khula, so the proviso to Rule 6 directly applied to the main relief. Section 7(2) of the Family Courts Act permits a wife to include connected claims for dowry, maintenance, dower, personal property, and belongings in the same plaint.

The High Court relied on *Muhammad Imran v Judge Family Court, Bahawalpur and another* (2012 MLD 259) for the proposition that a wife may pursue a dowry claim alongside dissolution proceedings before the Family Court where she ordinarily resides.

It also referred to *Wing Commander Tipu Sultan Khan v Rubina Saira Zaffer and another* (2009 YLR 1021), which emphasized avoiding conflicting adjudication after Khula and recognized the convenience of the woman litigant. The Court did not turn that authority into an absolute bar against every territorial objection. It treated the completed Khula proceedings as an additional reason not to erase connected adjudication without a properly established jurisdictional defect.

Territorial venue is different from subject-matter competence

The husband had raised a jurisdictional objection in his written statement, so the High Court expressly declined to describe it as a new objection raised for the first time in appeal. But the Family Court did not frame and decide territorial jurisdiction as a separate issue. Both parties completed the trial and led evidence on the substantive claims.

The judgment distinguishes subject-matter jurisdiction from territorial forum. The Family Court

unquestionably had statutory competence over dissolution, maintenance, and dowry. The dispute concerned which territorial Family Court should hear those subjects. That kind of objection should not be treated as if the court lacked inherent power over family matters altogether.

Respondent No. 3 did not show that trial at Jahanian prevented him from defending the suit, producing evidence, or exercising any procedural right. No actual prejudice or consequent failure of justice was identified. On these facts, a bare territorial objection could not justify cancelling an adjudication reached after a complete trial.

Dismissal was not the automatic procedural result

The High Court identified a further error in the appellate approach. Rule 5 of the Family Courts Rules contemplates return of a plaint presented to a court without jurisdiction. That procedure preserves the underlying cause of action so it may be presented before the proper court.

The appellate court did not examine this distinction. After finding the territorial forum inappropriate, it dismissed the wife's entire suit and extinguished relief already adjudicated after evidence. Even if the jurisdictional objection had been established, dismissal of every substantive claim was not an automatic consequence.

The High Court ultimately did not rest its order on this procedural point alone because it found that lack of territorial jurisdiction had not been established in the first place.

Why Article 199 intervention was justified

A High Court exercising constitutional jurisdiction ordinarily does not substitute its own view of evidence for that of a lower court. The judgment preserves that limitation.

Intervention was justified here because the appellate decision was affected by misreading and non-reading of material evidence, misapplication of Rule 6, failure to appreciate the integrated nature of the claims under Section 7(2), and absence of any finding of prejudice. The case therefore fell within the recognized exception for a perverse finding or a conclusion not supported by a proper assessment of the record.

The final order

The Lahore High Court allowed the constitutional petition. It set aside the judgment and decree dated 15 March 2023 of the Additional District Judge, Jahanian, and restored the judgment and decree dated 21 December 2022 of the Judge Family Court, Jahanian.

The restored result was:

- dissolution of marriage through Khula remained effective;
- the claim for past maintenance remained dismissed;
- the claim for treatment expenses remained dismissed;
- Rs. 15,000 remained payable as lump-sum Iddat maintenance;
- Rs. 150,000 remained payable as the alternate value of dowry articles; and
- there was no order as to costs in the constitutional petition.

What the judgment means for practitioners

For a wife filing a dissolution suit, plead the facts of ordinary residence precisely: when she moved, why she moved, with whom she lives, and what evidence connects that residence to the relevant territorial limits. A permanent address on an identity document is relevant but is not the sole legal test under Rule 6.

For a respondent raising a territorial objection, include it in the written statement, seek a clear issue, produce evidence, and identify any real procedural prejudice. Participation in a full trial will not always waive an objection, but a technical venue argument is materially weaker when no failure of justice is shown.

For appellate courts, the judgment requires a relief-by-relief and evidence-based analysis. A finding about territorial venue should not be treated automatically as a finding that the Family Court lacked all subject-matter competence. The procedural options, including return of plaint under Rule 5, must be considered before substantive claims are extinguished.

Limits of the ruling

The decision does not hold that every temporary stay automatically creates Family Court jurisdiction. It does not remove the wife's burden to establish ordinary residence, and it does not make territorial objections irrelevant. It requires the forum question to be decided under the correct statutory test and on the whole evidence.

The decision also does not reassess the quantum of maintenance or dowry on fresh evidence. Those amounts were restored because the appellate court had not disturbed the Family Court's merits findings and had relied solely on an unsustainable territorial-jurisdiction conclusion.

This commentary is independent legal analysis for research and general information. The certified judgment, current statutory text, local amendments, pleadings, evidence, and procedural history should be checked before reliance in proceedings.