

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
IInd Appeal No.262 of 2023

Date	Order with Signature of Judge
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Mst. Zubeda Sharif *Appellant*

Versus

Wahidullah Ansari and others *Respondents*

Date of hearing: 15.04.2025

Date of Order: 15.04.2025

Mr. Zayyad Khan Abbasi, Advocate for the Appellant.
Mr. Inayatullah Ansari, Advocate for the Respondents.

ORDER

MUHAMMAD JAFFER RAZA, J: - Instant 2nd Appeal has been preferred against Impugned Judgment and Decree dated 30.08.2023 passed in Civil Appeal No.68/2020 by the VII-Additional District Judge, Karachi East. Facts of the case are summarized as follows: -

2. That the Suit No.1267/2002 and Suit No.801/2003 were allowed vide Judgment and Decree dated 29.01.2020. The said Judgment and Decree were Impugned in Civil Appeal No.68/2020 and the said appeal was dismissed vide Impugned Judgment and Decree dated 30.08.2023 squarely on the ground of limitation.

3. Learned counsel for the Appellant has argued that the appeal was not time barred, therefore, there was no need to file an application for condonation. He has further stated that the Judgment and Decree of the trial Court was passed on 29.01.2020 and the application for certified copy was moved on the same date. He has further stated that the copies were prepared on 31.01.2020 and he filed the above-mentioned civil appeal on 03.03.2020, which was the last date of filing of the said appeal, considering that 02.03.2020 was a Sunday.

4. Conversely, learned counsel for the Respondent has stated that the appeal was time barred and there is “tampering” in the record. He has further stated that

the Court fee along with instant appeal was not paid till the 10th of March 2020 and, therefore, the appeal was rightfully dismissed by the learned Appellate Court.

5. I have heard the learned counsel for the parties, perused the record with their assistance. It is evident from the record that the Judgment and Decree of the learned trial Court was passed on 29.01.2020, thereafter, Civil Appeal was preferred on 03.03.2020. I have also examined the certified true copy stamping. It is evident that an application for certified copy was preferred on the same date i.e. 29.01.2020 and the same was ready on 31.01.2020 (albeit received later by the learned counsel for Appellant). Even if time is computed from 31.01.2020 and given the fact 02.03.2020 fell on a Sunday, the appeal as rightfully pointed out by the learned counsel for Appellant, was filed on the last date, therefore, was within time and there was no need to file an application for condonation. Reliance may be placed on Section 4 of the Limitation Act 1908. The same is reproduced below: -

“4. Where Court is closed when period expires. ---Where the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, preferred or made on the day that the Court re-opens.”

6. The above discussion will be incomplete without referring to the computation of time period as prescribed under Section 10 of General Clauses Act 1897. The same is reproduced below: -

10. Computation of time – (1) Where, by any (Central Act) or regulation made after the commencement of this Act, any act or proceeding is directed to allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

Provided that nothing in this section shall apply to any act or proceeding to which the (Indian Limitation Act, 1877 (15 of 1877), applies.

This section applies also to all (Central Acts) and Regulations made on or after the fourteenth day of January 1887.

7. In the light of what has been held above, the instant Appeal is allowed. The Impugned judgment is set-aside and the matter is remanded back to the Appellate Court for decision on merits with no order as to cost.

Judge