

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
IInd Appeal No.217 of 2023

Date	Order with Signature of Judge
<i>Ghazala Naz Waheed and another.....Appellants</i>	
<i>Versus</i>	
<i>Adnan Ahmed Qadri and others.....Respondents</i>	
Date of hearing	:20.05.2025
Date of order	:20.05.2025

Mr. Asadullah Memon, Advocate for the Appellants.

ORDER

Learned counsel for the Appellants has impugned the order dated 20.07.2023 passed in Civil Appeal No.59/2023 by the District & Session Judge, Malir, whereby, application preferred by the Appellants under Section 5 of the Limitation Act, 1908, for condonation of delay in filing instant Appeal, was dismissed. Brief facts of the case are that the Appellants preferred Suit No.104/2018 and the same was partially decreed in favour of the Appellants. The Appellants being aggrieved with the said judgment and decree passed by the learned trial Court in the aforementioned Suit filed the Civil Appeal mentioned above.

2. Learned counsel for the Appellants stated that irrespective of the ground taken in his application under Section 5 of the Limitation Act, he may be allowed to contest the case on merits as the law prefers adjudication on merits and not technicalities.

3. Instant appeal was presented on 05.09.2023 and notices were repeatedly issued to the Respondents even through publication as noted in order dated 23.12.2024. Due to the non-appearance of the Respondents they were declared ex-parte. I have heard the learned counsel for the Appellant and examined the record. I agree with the contention of the learned counsel for the Appellants that the delay in filing the appeal was due to circumstances beyond his control. I do not believe that the Appellants should be deprived of the opportunity to file the noted appeal. In the light of what has been held above, instant appeal is allowed and the

matter is remanded back to the Appellate Court for decision on merits after notice to the respective parties within sixty (60) days from today.

Instant Appeal stands disposed of in the above terms along with listed application.

Judge

Nadeem