ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

High Court Appeal No. 62 of 2024

(*Mukesh Kumar v. Arshad Mehmood & Others*)

DATE: **ORDER WITH SIGNATURE(s) OF JUDGE(s)**

For Further Hearing of CMA No.979 / 2024 (Review App u/s 114 CPC)

Dates of hearing: **30.03.2026 & 25.05.2026**
Date of announcement: **02.06.2026**

Mr. Ghulam Murtaza Khuhro, Advocate for Applicant
Mr. Saad Fayaz, Advocate for Respondent No.2 (NAPA)

O R D E R

Omar Sial, J: The listed CMA No.979/2024 is an application for review **("Review Application")** of the judgment dated 28.3.2024 **("Impugned Judgment")**, rendered by a Division Bench of this Court. Since one of the members of the Bench (viz. Mr. Justice Muhammad Shafi Siddiqui) has subsequently been elevated to the Supreme Court of Pakistan, this Application has been placed before me in terms of the Office Note and the order dated 24.3.2025 issued by the then Honourable Acting Chief Justice.

2. Though the Review Application – filed by the Applicant (Mr. Mukesh Kumar) under Section 114 read with Order XLVII Rule 1 of the *Code of Civil Procedure, 1908* **("CPC")** – had earlier been reserved for orders on 30.3.2026, upon further examination of the record, a question touching upon its maintainability emerged. The matter was, therefore, relisted for further hearing so as to afford the respective Counsel an opportunity to address the Court on the said aspect. This Order accordingly governs the disposal of the Review Application

3. By way of background, the instant Appeal was dismissed through the Impugned Judgment, and the learned Single Judge's order dated 25.01.2024 was maintained. The Single Judge, through the said order, had dismissed *in limine* the Appellant's intervener/joinder application **("Intervener Application")** under Order I Rules 8(2) and 10(2) CPC (bearing CMA No.19472/2023), filed in Suit No.1646/2008 (*Arshad Mehmood & Another v. Province of Sindh & Another*) **("Underlying Suit")**, on the ground that the Appellant had failed to demonstrate how the Intervener Application was maintainable in a representative capacity.

4. The learned Counsel for the Applicant has been confronted with the question of maintainability of the Review Application on the ground of being time-barred.

5. According to the Applicant's Counsel, the limitation period for filing an application for review is thirty (30) days and, in any event, the time consumed in obtaining the certified copy of the Impugned Judgment is liable to be excluded while computing limitation. He submits that, upon such exclusion, the instant Review Application has been filed within time. However, no case law or other legal basis has been cited in support of these contentions.

6. As per the learned Counsel for Respondent No.2 (NAPA), the applicant and his counsel were both present on the date of hearing. He says that there is absolutely no ground for a review.

7. Heard the respective counsel for the parties and perused the record.

8. Under Article 162 of the First Schedule to the *Limitation Act, 1908*, the limitation period prescribed for filing a review application against an order passed by a High Court in exercise of its original jurisdiction is twenty (20) days from the date of a decree or order[1]. Article 162 reads as follows:

DESCRIPTION OF APPLICATION	PERIOD OF LIMITATION	TIME FROM WHICH PERIOD BEGINS TO RUN
162. For a review of judgment by [a High Court] in the exercise of its original jurisdiction.	Twenty days	The date of the decree or order.

9. As the Impugned Judgment was pronounced on 28.3.2024 (and signed on 29.3.2024), the Review Application was required to be filed on or before 17.4.2024; however, it was presented on 22.4.2024. The Application is thus delayed by five (5) days if reckoned from the date of pronouncement (28.3.2024), and by four (4) days if computed from the date of signing (29.3.2024). Notably, no application seeking condonation of delay is available on record[2].

10. Insofar as the plea relating to exclusion of time consumed in obtaining the certified copy is concerned, the same is misconceived. It is well-settled that a

[1] PLD 1991 SC 197 (*Government of Sindh v. Fazal Muhammad*); 2009 SCMR 1022 (*Ahmad Jan v. Azizul Haq*); Unreported order dated 3.10.2023 of Sindh High Court (Division Bench) in CP No.D-2026/2020 (*Muhammad Asif v. Federation of Pakistan*); Unreported order dated 7.11.2024 of Sindh High Court (Division Bench) in CP No.D-1459/2024 (*Murad Ali Lehri v. Province of Sindh*)

[2] 2009 SCMR 1022 (*Ahmad Jan v. Azizul Haq*)

certified copy is not a prerequisite for filing a review application[3] before the same Court.

11. It is equally well-established that limitation is not a mere technicality but a statute of repose intended to extinguish stale claims and ensure certainty in legal relations. Limitation laws are strict and inflexible, admit of no equitable relaxation, and must be applied in accordance with their clear terms[4].

12. Given that the Review Application has been found to be barred by limitation, no further elaboration is strictly required. Nevertheless, as several grounds have been raised in the lengthy Review Application, **including one specifically making allegations against the Bench**, it is considered appropriate to briefly address the same.

13. In his Review Application (in paragraph 1 titled "*Regarding Factual Inaccuracies*"), the Applicant, in particular, has taken exception to the Impugned Judgment on the premise that it refers to him (Applicant) directly as if he was personally present in Court and had been heard in person, whereas, it is alleged by him, he was not even present in Court on that day (i.e. 28.3.2024). This, he has **characterised as negligence on the part of the Court, and has further, not so subtly, sought to exert pressure on Court by invoking the spectre of adverse publicity in the event this aspect were to be made public**. The following is submitted:

i) First of all, the Impugned Judgment was rendered by a Division Bench, and even assuming, without conceding, that an error may occur on the part of an individual Judge, it is implausible that both members of the Bench would have recorded a fact contrary to what transpired in Court regarding the Applicant's presence.

ii) Notwithstanding the above, the learned Counsel for Respondent No.2 (NAPA) – who himself was present on the date the Impugned Judgment was passed – was specifically asked this question during the course of proceedings today and has duly and independently confirmed that the Applicant was present in Court on the said date. **Exercising utmost restraint, I refrain from making any further comment on the Appellant's false assertion, his conduct, or to take any action in that regard**.

iii) In any event, nothing material turns on the Applicant's personal presence or absence on that date, inasmuch as his Counsel was

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[3] 1986 SCMR 1602 (*Dada Steel Mills v. Government of Baluchistan*)

admittedly present and had fully argued the Appeal. It is not even the Applicant's case that his Counsel was absent or that he was not afforded an opportunity of hearing on the date of the Impugned Judgment.

iv) As regards the repeated references to the Appellant in the Impugned Judgment, the same are nothing more than typographical or stenographic errors, as the context unmistakably shows that the reference was intended to be to the "Counsel for the Appellant" rather than the Appellant himself.

14. The Applicant's next contention is two-fold, namely:

(a) That since Respondent No.3 (*Shree Ratneshwar Maha Dev*, a registered welfare body) was allowed to join in the Underlying Suit by order dated 10.11.2014, as upheld by the earlier Division Bench vide order dated 10.10.2018, similar treatment ought to have been extended to the Appellant on the premise that he is a Hindu and thus has an alleged interest in the subject matter of the "*Hindu Gymkhana*"; and

(b) That if the Impugned Judgment intended to take a different view from that of the earlier Division Bench, the proper course was to refer the matter to the Honourable Chief Justice for constitution of a larger Bench.

15. The above contentions are misconceived to say the least for the following reasons:

i) Merely because the subject matter of the Underlying Suit is a property called "*Hindu Gymkhana*" does not, by itself, confer any right upon the Appellant to be impleaded as a party on the basis of his religious affiliation. Acceptance of such a proposition would lead to an untenable and impermissible consequence whereby any individual professing the same faith could, on that sole basis, claim a right of impleadment in proceedings concerning such property, irrespective of the absence of any enforceable legal interest therein.

ii) Secondly, the intervention/joinder of Respondent No.3 was allowed in entirely different factual and legal circumstances. The said Respondent's Constitutional Petition No.D-2267/2007

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[4] PLD 2016 SC 872 (*Khushi Muhammad v. Fazal Bibi*)

concerning the "*Hindu Gymkhana*" had been instituted much prior in time and was pursued up to the Honourable Supreme Court (via CA No.16-K/2014 arising from CPLA No.20-K/2014), which circumstance weighed with the earlier Single Bench and Division Bench in upholding its locus. The Appellant, on the other hand, has neither instituted any prior or parallel litigation nor demonstrated any comparable legal nexus with the subject matter. The facts surrounding the present Appellant's Intervener Application, which was dismissed by the learned Single Judge and the said order was maintained by this Court vide the Impugned Judgment, are clearly distinguishable.

16. At any rate, a Review Application cannot be converted into a forum for re-arguing the matter or for introducing new grounds under the guise of review. The Applicant had an adequate remedy by way of appeal[5] before the Honourable Supreme Court and/or the Federal Constitutional Court, which he has either chosen not to avail or has otherwise allowed to lapse, and such omission cannot now be indirectly cured and/or circumvented through review proceedings, namely the Review Application.

17. For the foregoing reasons, the Review Application (CMA No.979/2024), apart from being barred by limitation, is found to be devoid of merit. The same is accordingly ***dismissed with costs of Rs.50,000/-*** (*Rupees Fifty Thousand*), to be deposited in the account of the High Court Clinic within ten (10) days from today.

JUDGE

[5] 2017 MLD 1049 (*Forte Pakistan (Pvt) Ltd v. Azam Khan*)