ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

Civil Revision Application No. 238 of 2026

Date: Order with signature of Judge

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1. For orders on CMA No. 7444/2026 (U/A)
2. For orders on CMA No. 7445/2026 (Ex/A)
3. For hearing of main case
4. For orders on CMA No. 7446/2026 (Stay)

09.10.2026

Mr. Sikandar Ali Kolachi, Advocate for the Applicant.

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1. Urgency granted.

2. Exemption is granted subject to all just exception.

3-4. This Civil Revision Application has been filed under Section 115 C.P.C. by the Applicant [Muhammad Shahbaz Akram] against the Order dated 31.08.2026 passed by the learned Vth Additional District & Sessions Judge, Karachi South, in Summary Suit No. 229/2025, whereby the application of the Applicant for leave to defend under Order XXXVII Rule 3 C.P.C. was dismissed.

The brief background of the matter as narrated in the memo of revision application is that the Respondent [Hassan Aijaz] filed a summary suit for recovery of Rs. 46,00,000/- under Order XXXVII C.P.C. on the basis of cheques issued by the Applicant pursuant to a compromise dated 12.08.2024, whereby he undertook to pay Rs. 61,00,000/- on behalf of one Muhammad Sultan Ali Arif. The cheques were subsequently dishonoured after the Applicant stopped payment. It is stated that the Applicant voluntarily appeared before the Trial Court on 10.12.2025, received copies of the plaint and documents on 13.12.2025 but filed his leave to defend application on 24.12.2025, claiming that the delay was neither deliberate nor wilful.

The learned Trial Court, vide order dated 31.08.2026, dismissed the Applicant's leave to defend application as time barred due to a delay of two days under Article 159 of the Limitation Act, 1908. Aggrieved, the Applicant has filed instant revision on the ground that limitation should run from receipt of the plaint copies, that the minor delay deserved condonation in the interest of justice and that the impugned order violates his right to a fair trial under Article 10-A of the Constitution.

The learned counsel for the Applicant submits that the Applicant went to the office on 16.12.2025., but was verbally told that since the matter is

fixed on 24.12.2025, the leave to defend may be filed in Court. When asked whether this has been stated in the condonation application, the learned counsel submitted that no condonation application was filed. The Supreme Court has held in *Muhammad Anwar v. Essa*, PLD 2022 SC 716 that party seeking condonation of delay has to explain each and every day of delay through an affidavit as such oral submission for condonation of delay was considered invalid in view of the fact that upon expiry of the limitation, the claimant loses his right to enforce his claim through a Court of law and consequently a right accrues to the respondent by operation of law which cannot be disturbed lightly.

In view of the foregoing, the two days' delay has not been explained and I find no illegality or material irregularity in the impugned Order dated 31.08.2026 warranting interference by this Court. Accordingly, this Civil Revision Application is dismissed in *liminie*.

J U D G E

Imran