HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Civil Revision Application No.83 of 2025

Present: Justice Jawad Akbar Sarwana

Applicants	:	Muhammad Umair Lakhani s/o Saleem Lakhan, present in person and through Mr. Khalid Hussain Khoso, Advocate
		v.
Respondent No.1	:	Zulfiqar Ali s/o Javed Ali. Nemo.
Respondent No.2	:	Pinni Ladho Palari s/o Sindhar Palari, present in person and through Mr. Syed Abdul Rasool Shah, Advocate
Respondent No.3	:	Registrar Jamshoro
Respondent No.4	:	The Sub-Registrar, District Jamshoro
Respondent No.5	:	The District Commissioner Jamshoro
Respondent No.6	:	The Deputy Commissioner Jamshoro
Respondent No.7	:	The Assistant Commissioner District Jamshoro, Thano Bola Khan
Respondent No.8	:	Mukhtiarkar Taluka Thano Bola Khan through Mr. Allah Bachayo Soomro, AAG and Mr. Muhammad Yousuf Rahpoto along with ASI Javed Ahmed Rajput on behalf of SHO Gulshan-e-Iqbal, East Karachi
Dates of hearing & Short Order	:	**19.11.2025**, **26.11.2025** and **01.12.2025**
Date of reasons	:	**24.10.2026**

O R D E R

JAWAD AKBAR SARWANA, J.: Applicant/plaintiff, Muhammad Umair Lakhani s/o Saleem Lakhani, also present in person, is aggrieved by the Order dated 03.03.2025 passed by the Incharge 1st Additional District Judge, Kotri ("the appellate Court") in Civil Appeal No.73/2024 dismissing the applicant/plaintiff's appeal against the judgment and decree dated 24.09.2024 passed by the IInd Senior Civil Judge, Kotri ("the trial Court") in F.C. Suit No.10/2021 filed by the appellant/plaintiff against Zulfiqar Ali (the respondent/defendant

no.1-), Pinni Ladho Palari (the respondent/defendant no.2), and six (6) other official respondents/defendants. The appellate Court dismissed the appellant/plaintiff's civil appeal on the point of limitation, whereas the trial Court dismissed the appellant/plaintiff's civil suit on merits. The appellate Court did not articulate reasons for dismissing the civil appeal on merits. The dismissal was solely because the appeal was time-barred, as the applicant/plaintiff could not explain "sufficient cause" for the delay in filing the appeal. The appellate Court observed that the applicant's conduct, based on documentary evidence, could not explain the delay in filing the appeal based on a certified copy of the judgment and decree dated 24.09.2024, which disclosed that the said certified copy was applied for and supplied to the applicant/plaintiff on 30.09.2024, and yet the civil appeal was instituted by the applicant/plaintiff in the appellate Court on 30.11.2024, much beyond the 30 days' time prescribed for filing appeals under Article 152 of the Limitation Act, 1908.

2. In spite of repeated notices of the revision to the respondent/defendant no.1, none has entered appearance on his behalf. No intimation has been received, including notices through the concerned SHO, in Karachi East. Meanwhile, respondent/defendant no. 2, in person and through counsel, has given their "No Objection" to this civil revision. As the bench cannot wait indefinitely for respondent/defendant no. 1, this bench therefore decides this revision based on the assistance of the learned Counsel and the AAG as well as documents available on record.

3. As discussed above, the adjudication of the revision turns on the filing and obtaining of the certified true copy ("CTC") of the judgment and decree of the trial Court and its filing in the appellate Court. The relevant data is summarised in tabular format hereinbelow.

Date	**Office proceedings in the IInd Senior Civil Court-II, Kotri in Suit No.10/2021** **(Data based on the applicant/plaintiff Statement dated 19.11.2025 and front and reverse side of page 231 of the civil revision)**
24.09.2024	Date of Preparation of the Judgment and Decree signed by the Decree Clerk, Zeeshan Ahmed; the C.O.C. Ghulam Akbar, and the Senior Civil Judge-II, Kotri, all dated "24.09.2024".
30.09.2024	("A") <u>Applicant/plaintiff files application for Certified True Copy ("CTC") of the Judgment and Decree.</u>
30.09.2024	Date of estimate of fees of Judgment and Decree
30.09.2024	Date of deposit of estimate of fees of Judgment and Decree
30.09.2024	Date copy of CTC of Judgment and Decree made ready on
30.09.2024	Date of delivery of copy of CTC of Judgment and Decree as mentioned on the CTC
30.11.2024	Applicant/plaintiff files application for CTC of "A".
02.12.2024	Date of estimate of fees of CTC of "A"
02.12.2024	Date of deposit of estimate of fees of CTC of "A"
03.12.2024	Date of copy of CTC of "A"
03.12.2024	Date of delivery of CTC of "A" along with **<u>Note</u>** from COC of even date, which states as follows: "**Note:** counsel of plaintiff applied for certified copies of judgement and decree on 30-09-2024 no intimation was given by the office of this Honourable court/copyist that certified copies are ready, now the office / copyist delivered certified copy of judgement and decree on dt: 30-11-2024 but the date of delivery is written on the surface of c,c as 30-09-2024."

4. The above tabular record reflects two (2) divergent points:

(i) although, the date stamp “Date of delivery of copy” of the Judgment and Decree mentions the date of “30.09.2024”;

however,

(ii) the certified true copy of the application for CTC applied for by the applicant/plaintiff on 30.11.2024 and obtained on 03.12.2024, mentions a Note from the C.O.C. which states that no intimation was given by the office of the Court/copying that certified copies are/were ready on 30.11.2024 but now the office/copying delivered CTC of judgment and decree on 30.11.2024 but the date of delivery is written on the surface of c.c as 30.09.2024.

5. The above aspect of the matter has neither been discussed nor dealt with by the appellate Court in the impugned Order dated 03.03.2025; whereas the application under Section 5 of the Limitation Act, 1908 filed by the applicant/plaintiff along with its supporting affidavit available in the revision, paragraph 4 of the affidavit clearly raised the same ground concerning the **Note** of the C.O.C. In these circumstances, the appellate Court ought to have addressed this point in the impugned Order dated 03.03.2025, which dismissed the said appeal on the grounds of limitation, but it did not. Instead, the appellate Court ignored the Note of the C.O.C. and mechanically calculated the time spent in obtaining the CTC of the Judgment and Decree from the date of filing the application for the CTC, when the copy was made ready and delivered. The Note of the C.O.C. merit consideration.

6. The Superior Courts of Pakistan have consistently observed in the judgments reported in *Shujahat Hussain v. Muhammad Habib and another*, 2003 SCMR 176; *Haji Umer and 2 others v. Province of Sindh, through Secretary, Revenue Department, Karachi and 5 others*, PLD

2009 Karachi 247; *Messrs Pak Suzuki Motor Co. Ltd v. Haji Ahmed Shaikh and another*, 2005 CLC 680; and *NIB Bank Ltd. v. A.R.Y. Traders (Pvt.) Ltd. through Director*, 2017 MLD 1447, that the time spent in obtaining certified true copy of the impugned Order because of the several moving parts involved in the process of obtaining certified true copies may be excluded based on the facts and circumstances of each case. Further, the above authorities also mandate that the copying branch/office must intimate the applicant, who has applied for certified copies, when the certified copies are ready for delivery.

7. In the facts and circumstances of the case, the C.O.C. has stated on record that the applicant was not intimated when the certified copies were ready and that the date of the CTC of the Judgment and Decree, as mentioned on the face of the certified copy, while it mentions the date the CTC was made ready and the date of delivery as "30.09.2024", this is not the complete picture and the date was apparently "30.11.2024". Given the C.O.C. Note, the civil appeal filed by the applicant before the appellate Court was/is within time. The entire period from 30.09.2024 to 30.11.2024 is to be excluded when calculating the period of limitation for filing the appeal under Article 152 of the Limitation Act, 1908.

8. Given the above, vide my Short Order dated 01.12.2025, I allowed the Revision Application and set aside the appellate Order dated 03.03.2025 passed by the appellate Court in Civil Appeal No.73/2024 with directions that the matter was/is remanded to the appellate Court to be decided afresh in accordance with law. The above are my reasons for the said Short Order.

9. The revision application stands allowed in the above terms.

JUDGE

AHSAN K. ABRO