

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

IInd Appeal No.16 of 2015

Date	Order with signature of Judge
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Hearing of cases (Priority)

1. For orders on CMA No.8597/2017
 2. For orders on office objection
 3. For hearing of CMA No.2254/2015
 4. For hearing of main case.
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18.10.2018

Mr. Kaleem-ul-Hassan, advocate for appellants.
Mr. Rasheed Ahmed Shaikh, advocate for Respondent.

This IInd Appeal is filed against the judgment and decree dated 14.3.2015 passed by learned Vth Additional District Judge, East Karachi in Civil Appeal No.172/2014. To be very precise the Respondent has filed suit for declaration, possession, permanent injunction and mesne profit against the appellants in respect of property bearing No.866, Gali No.11, Sector No.32/E, Korangi No.1, Zia Colony, Karachi alongwith house constructed thereon. Said suit was decreed in favour of the Respondent by judgment dated 25.8.2014 and decree dated 30.8.2018. Against the said order the appellant filed appeal before the Vth Additional District Judge, Karachi East. The Respondent filed objections against the said appeal stating therein that the appeal was time barred and filed after expiry of 60 days, therefore the appellate Court has dismissed the appeal being time barred and passed the following order:-

On the point of limitation when record perused it appears that trial Court has passed judgment on 25.08.2014 and decree on 30.08.2014, whereas, learned counsel for appellants applied for certified copy of judgment & decree on 04.10.2014, the same was provided him on the very same date, whereas, appeal has been presented before the learned District and Sessions Judge Karachi East

on 04.10.2014, meaning thereby appeal has been filed after expiry of 30 days.

Article 152 Limitation Act provides 30 days' time for filing of the appeal and the period begins to run from the date of judgment and decree. In the present case it is matter of record that decree was passed on 30.08.2014 and if the time period is calculated it was incumbent upon the appellants to file the appeal on 30.09.2014, which is hopelessly time barred.

In the light of aforesaid discussion, I am of the humble opinion that appeal is time barred, therefore, same stands dismissed which no order as to cost.

In view of the above, since the appeal filed by the appellant was dismissed being time barred and an elaborated judgment has been passed by the appellate Court and no plausible explanation was given by the appellant for condonation of delay. A statutory right has accrued to the Respondent which cannot be taken away by Court without any cogent reason. Consequently this IInd Appeal is dismissed alongwith pending application(s).

JUDGE